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NOMINATIONS—DOT

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

NOMINATION OF

SAMUEL K. SKINNER, TO BE SECRETARY, DEPARTMENT OF TRANSPORTATION

JANUARY 25, 1989

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NOMINATION—DOT

WEDNESDAY, JANUARY 25, 1989

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION,
Washington, D.C.

The Committee met, pursuant to notice, at 10:04 a.m., in room SR-253, Russell Senate Office Building, Hon. Ernest F. Hollings (chairman of the committee) presiding.

Staff members assigned to this hearing: Robert Hollèyman, staff counsel; Becky Kojm, professional staff member; and Ruth Johnson, minority professional staff member.

OPENING STATEMENT BY THE CHAIRMAN

The CHAIRMAN. Good morning, ladies and gentlemen. The committee will please come to order.

We are very pleased today to have our distinguished colleagues, the Senators from Illinois, Senator Dixon and Senator Simon, along with our distinguished leader in the House, Congressman Michel. I want to recognize now Senator Dixon.

STATEMENT OF HON. ALAN J. DIXON, U.S. SENATOR FROM ILLINOIS

Senator DIXON. Thank you, Mr. Chairman. I want to thank you, Chairman Hollings, for allowing me to introduce Secretary-designate Sam Skinner to the committee this morning.

Sam is currently a senior partner in the Chicago office of Sidley & Austin, the internationally renown law firm. Since 1984 he has presided as chairman of the board of directors of the Regional Transportation Authority of Northeastern Illinois, the second largest public mass transportation system in this country.

As United States Attorney for the Northern District of Illinois Sam served for nine years under three presidents. The integrity and professionalism with which he carried out all of his duties was and remains today unquestionable.

During his tenure as U.S. Attorney, Secretary-designate Sam Skinner was a member of the Department of Justice White Collar Crime Committee and the Attorney General's Advisory Committee. In 1983 President Reagan appointed him to the President's Commission on Organized Crime on which he served as vice chairman.

Throughout his private and public life Sam Skinner has pursued the highest standards of excellence for himself and this nation.

After serving the army, Sam won the IBM outstanding salesman of the year award and as a law student he became a member of the University of Chicago prestigious law review. He won numerous awards, including outstanding young citizen awards, from the Chicago Junior Chamber of Commerce and Outstanding Alumni of DePaul University.

As chairman of Chicago's RTA, Sam has brought a new respect for innovative cost-effective approaches to urban transportation problems. In a time of budget constraints and increasing capital and operating needs in urban areas, he has developed short and long-run strategic plans that have put RTA on an even fiscal keel. He knows how to get the most bang out of each scarce dollar, which makes him an especially good choice in this era of continuing budget crisis.

Most of Sam's adult life has been dedicated to positive public service. He has served as chairman of the Illinois Capital Development Group, the governor's Fraud Prevention Commission, and the governor's Task Force on Energy Conservation and Coal Conservation.

Mr. Chairman, in short, Sam Skinner is one of the most dedicated, hardworking men I have ever had the pleasure to know. I can personally attest to his forthrightness and his vigilance in the service of honest, good government, and I could recommend, Mr. Chairman, no one higher for this important cabinet post.

I thank the Chairman and the committee.

The CHAIRMAN. Very good.

Senator Simon.

STATEMENT OF HON. PAUL SIMON, U.S. SENATOR FROM ILLINOIS

Senator SIMON. Very good, and thank you, Mr. Chairman. I am very pleased to join my colleague, Alan Dixon, and my colleague in the House, Bob Michel and Dan Rostenkowski, in presenting Sam Skinner to the committee.

Everything Alan Dixon said is accurate. I would add he has background in the transportation area. He was the chairman of the Regional Transit Authority in the Chicago area.

The attitude of some in the past administration that mass transit ought to just kind of drop dead, I think you will see a different attitude on the part of Sam Skinner. He is a pilot and he is a hands-on kind of a person. He has dropped in at the Regional Air Control spot in Aurora to see what is going on. He is going to be visiting tomorrow at the tower at O'Hare Airport to see what is wrong there and what can be done to improve things.

That is the kind of a hands-on administrator we want and, frankly, this nation needs. And I am very pleased to be here to join in paying tribute to Sam Skinner and saying to this committee I think you have an excellent appointee by President Bush here, and I hope you will receive the unanimous approval of this committee.

The CHAIRMAN. Very good, sir.

Mr. Michel.

STATEMENT OF HON. ROBERT MICHEL, U.S. REPRESENTATIVE FROM ILLINOIS

Mr. MICHEL. Thank you, Mr. Chairman, and members of the committee. I am happy to join my colleagues in endorsing Sam Skinner for the position of Secretary of Transportation. I welcome the opportunity because the decisions made by the Secretary of Transportation affect every American, and the U.S. is and always has been a nation on the move, and we are currently a nation with many problems in transportation. So, the job facing the next secretary is going to demand leadership and experience and a capacity for hard work.

I can personally attest to the fact that Sam Skinner has all those qualities. I think the committee would obviously be very interested in knowing that he has brought his agency from the red into the black and how that was accomplished. He is a man of integrity and good character. He has an outstanding background in the law enforcement area and certainly will respond forthrightly and honestly to the questions that might be raised by the committee for his confirmation.

I am very happy to join in endorsing Sam Skinner for the position wholeheartedly. I know he will do an outstanding job, and I certainly hope that the committee will find the answers to his questions satisfactory to award him a unanimous confirmation when that time comes.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Very good. The committee is also indeed honored to have our distinguished chairman of the Ways and Means Committee here, Chairman Rostenkowski.

STATEMENT OF HON. DAN ROSTENKOWSKI, U.S. REPRESENTATIVE FROM ILLINOIS

Mr. ROSTENKOWSKI. Thank you, Mr. Chairman, and thank you, members of the committee. I would like to take this opportunity to express my gratitude to this committee for allowing me to appear this morning for the privilege of helping to introduce my friend and fellow Illinoisian, Sam Skinner.

I am certainly proud to associate myself with the remarks of my good friends Alan Dixon, Paul Simon, and, of course, my associate in the House, Bob Michel, in support of the president's nomination of Sam Skinner to be the Secretary of TRANSPORTATION. In my opinion, Mr. Chairman, it is a great choice.

Over the many years in which I have known and worked with Sam Skinner he has proven himself to be a brilliant lawyer, an innovative problem solver and a wise and decisive leader. As I am sure you will learn from these hearings, Sam is a man of forthrightness and strength and a political realist. He also happens to know a whole lot about federal transportation programs and how they "play" outside the Beltway.

In him, President Bush has chosen the right person to lead us into a new area of transportation policy. It is an era which I predict will be marked by excellent working relationships with the Congress, a productive partnership between DOT and local leaders and sound international policy decisions.

I hope after these hearings that this committee and the full Senate will join with us in supporting Sam's nomination.

I would like to also point out, Mr. Chairman, that you can see how those of us from Illinois are so excited. We very seldom are recognized by an administration, in Illinois, by putting someone in the Cabinet, and so I am sure that you may see many more of us from the House side coming over to applaud this nomination.

The CHAIRMAN. Well, it seems to me from all of the laudatory introductory remarks that we have got the first Democrat on the Bush administration here.

Are there any questions from my colleagues of the distinguished Senators and Congressmen here? I know they are busy. They always have other hearings to attend, and we would be glad to excuse them, but we would be delighted if you could stay with the nominee. We want to hear from the nominee now. But if there are not any questions, we thank you very, very much for your appearances here this morning.

Very good.

Mr. ROSTENKOWSKI. Good luck, Sam.

The CHAIRMAN. I have opening statements from Senators Bentsen and Rockefeller that I will include in the record along with your biographical sketch.

[The statements and biographical sketch follow:]

Opening Statement by Senator Bentsen

Mr. Chairman, I join with the Committee and with Senators Dixon and Simon as well as Chairman Rostenkowski and Representative Michel in welcoming Mr. Skinner to the hearing today. I have met with Mr. Skinner and we engaged in a cordial and frank discussion about a variety of transportation issues. He is aware of my concerns about aviation as they relate to safety and capacity needs. He also understands the goals of urban areas to meet some of their transportation needs through mass transit and better roads and highways. I am impressed that he has set a goal of formulating a national transportation plan to integrate all modes of our vast transportation system. That needs doing in a more organized fashion than what we have now, and I applaud his willingness to tackle this issue.

I have only a few questions for Mr. Skinner; and I will place them in the record and perhaps Mr. Skinner can answer them later. They begin with a subject about which Mr. Skinner knows a very great deal—mass transit.

Mr. Skinner, your background and current involvements indicate that you are knowledgeable about mass transit issues. For that reason, among others, you are an interesting choice. As you know, the previous Administration was not altogether sympathetic to transit needs. In fact, the most recent Administration budgets have provided no funds for discretionary grant funding, which, as you know, is the core of construction funds for developing systems. Congress has not accepted this approach, and each year the tug of war has continued with the Administration zeroing out funds and Congress recognizing that this approach is both unworkable and unfair. Of course, I, like most of my colleagues, understand that the size of the federal contribution to mass transit will continue to reduce so long as our revenue situation remains as it is now. I pledge to work with the new Administration to improve that situation.

But what concerns me, Mr. Skinner, is that the previous Administration failed to recognize the importance of mass transit in regions of the country such as my own which are just now developing mass transit systems. This is due largely because of recent population shifts and a corresponding demand on our streets and highways. In cities like Houston and Dallas, for example, transit officials are now in the process of planning, designing, and constructing a light rail system.

It is going to take a few more years to complete, and I, for one, do not think that it makes sense to "pull the rug" from under these cities at the very time their transportation needs are on the brink of overwhelming them.

I will also have questions about highways and what you envision the federal role to be when the interstate system is complete in 1991. As well, like most of my colleagues, I will have a few questions about airport capacity problems, aviation safety, and the relationship between FAA and the Department of Transportation.

I am confident that you will confront all of these issues head-on, Mr. Skinner. Frankly, I look forward to working with, and I congratulate you on your appointment and wish you well in this new endeavor.

Thank you, Mr. Chairman.

Opening Statement by Senator Rockefeller

Mr. Chairman, I will keep my remarks this morning very brief.

I have had the opportunity to meet with Mr. Skinner in my office. It's clear that Mr. Skinner has excellent credentials to provide leadership to the Department of Transportation. Your four years as head of the Nation's second largest public mass transportation system, your twenty years of law practice in the public and private sector make you a very fine choice on the part of our new President.

And yet I think it's important to discuss here today one concern I have, as a Senator from the state of West Virginia, about Mr. Skinner's experience. Mr. Skinner will bring to his new position—which I'm sure he will attain—great sensitivity to the needs of urban America. And I think that's important. However, I would remind Mr. Skinner that many members of this committee represent predominantly rural states.

We represent states whose transportation infrastructure has suffered greatly at the hands of deregulation. Our constituents find it hard to see the benefit of cheap flights from New York to Los Angeles when they cannot readily or affordably fly from Beckley, West Virginia to Washington, DC. Our captive shippers have not gotten the protection from monopolistic rates to which they are entitled under the Staggers Rail Act. Our communities don't see bus service connecting them to other communities or decent roads linking them to the rest of the country.

Mr. Skinner, those of us from rural states are hopeful that the transportation needs are accounted for by this Administration. We know that you already have been confronted by an important rural transportation issue—the existence of the Essential Air Service program. I hope that saving the Essential Air Service is the first action you take in support of rural America. I also hope to work closely with you in finding a way to complete the Appalachian corridors, which are vital to the economic development of the Appalachian region.

Mr. Skinner, I wish you much success in your new position as Secretary of Transportation and I look forward to working with you and the Bush Administration on these issues.

ERNEST F. HOLLINGS, SOUTH CAROLINA, CHAIRMAN
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United States Senate
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
WASHINGTON, DC 20510-6125

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

(If more space is needed, please use attached REMARKS sheet)

I. BIOGRAPHICAL DATA

1. Name: Skinner (Last) Samuel (First) Knox (Other)

Address: 827 North Dearborn (Current residence) Suite 5400, One First National Plaza (Business)

Chicago, Illinois 60610 Chicago, Illinois 60603

2. Position to which nominated: Secretary of Transportation Date of nomination:

3. Date of birth: June (month) 10 (day) 1938 (year) Place of birth: Chicago, Illinois

4. Marital status: Separated 1/9/87 Full name of Spouse: Susan Ann Thomas Skinner

5. Names and ages of children: Thomas - 27

Steven - 24

Jane - 21

6. Education:

Institution	Dates attended	Degrees received	Dates of degrees
University of Illinois	9/56-6/60	B.S.	6/60
DePaul University Law School	9/61-2/66	J.D.	2/66

7. Employment record: List all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

From	To	Name of employer	Address	Type of work
6/60	9/60	IBM	Chicago, Ilinois	sales trainee
9/60	3/61	U.S. Army	Ft. Knox, Kentucky	platoon leader
3/61	9/68	IBM	Chicago, Illinois	salesman
9/68	7/77	U.S.Dept./Justice	Chicago, Illinois	U.S. Attorney
7/77	present	Sidley & Austin	Chicago, Illinois	lawyer

8. Government experience: List any experience in or direct association with Federal, State, or local governments including any advisory, consultative, honorary or other part-time service or positions.

U.S. Attorney's Office 9/68-7/77

Chairman - Illinois Fraud Prevention Commission 1977-1979

Chairman - Illinois Coal Conversion Task Force - 1980

Chairman - Illinois Capital Development Board 1979-1984

Chairman - Regional Transportation Authority 1984-present

Vice-Chairman - President's Commission on Organized Crime 1983-1985

9. Political affiliations activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last 10 years.

I have been an active member of the Republican Party in Illinois since leaving Federal service in 1977. I have played a leadership role in 1 local, 5 state, and 2 federal campaigns during this time. I have contributed to both Republican and Democratic candidates during this same period.

10. Memberships: List all memberships and offices held in professional, fraternal, scholarly, civic, charitable, and other organizations.

Commercial Club
LaSalle Club
Onwentsia Club
Aircraft Owners and
Pilots Association
American Legion
Plantation Club at Ponte Vedra
Shoreacres
Mid-Day Club
Chicago Club
Illinois State Bar
Chicago Bar
National Association of Former U.S. Attorneys
Western Golf Association

11. Honors and awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievement.

IBM One Hundred Percent Club 1963-1968

Director - IBM One Hundred Percent Club 1966

President - IBM One Hundred Percent Club 1967

Department of Justice Outstanding Service Award 1972, 1974,

Selected as one of Chicago's top 10 citizens - Jaycees 1974

Selected as outstanding alumnis DePaul University

Numerous recognition awards from FBI, DEA, U.S. Postal Service, VFW 1968-1977

12. Published writings: List the titles, publishers, and dates of books, articles, reports, or other published materials you have written.

I have not written any books. As a government official, I have written articles for legal periodicals, trade journals, and an occasional letter to the editor. All of this material is not available, but I have directed a search to be made and those materials available will be forwarded to the committee under separate cover.

The CHAIRMAN. Mr. Skinner, we would be delighted to hear from you now.

STATEMENT OF SAMUEL K. SKINNER

Mr. SKINNER. Thank you, Senator Hollings. Mr. Chairman and members of the committee, I want first to say that my son Thomas is here. I would like to introduce my son, Tom. That is not my brother. That is my son.

The CHAIRMAN. It is a pleasure to have you.

Mr. SKINNER. He is a distinguished lawyer from Chicago, and I appreciate having him here.

I also want, just for the record, to thank you, my colleagues and friends from Illinois on both sides of the aisle. My relationship with those gentlemen has been developed over 20 years in service on a part and full-time basis, and I hope that their appearance here today indicates to the committee that I can work well on both sides of the aisle, and that I can put a consensus effort together.

My name is Sam Skinner, and I am President Bush's nominee to be Secretary of Transportation. Mr. Chairman, I appreciate your willingness to schedule this nomination hearing as one of the committee's first orders of business in the 101st Congress. I also thank you and the committee's other members for the opportunity to visit with you individually.

I have had the opportunity to meet with each and every one of you. I believe that these discussions have been very useful, and I hope they mark the beginning of a good working relationship.

I am honored by this nomination, not only because I have a strong personal interest in transportation, but because I believe a safe and efficient national transportation system is so critical to our economy.

If confirmed, my primary goal will be to develop a new national transportation policy that strengthens both our national security and our nation's economy. While I have not endorsed or formulated any particular policy blueprint, please note that I intend to take advantage of the views of the committee, the Congress, the public, industry, labor and, of course, the President before moving forward. If confirmed, I want to put into place a strategic plan for dealing with this nation's transportation needs into the next century—across all modes.

If we are to have a policy of this magnitude, I strongly believe we must take advantage of the synergy that exists between the various modes of transportation. Having brought modes together on a much smaller scale in my home state of Illinois, where we have the metropolitan area surrounding Chicago as well as a great deal of rural area, I am well aware of the competing interests that must be balanced here and must be balanced in transportation. This will require a strong commitment to intermodalism because cooperation within the department as well as cooperation between the executive branch and the Congress is vital to success. So there can be no doubt, my goals are to make travel safer, more efficient, and less expensive for the American consumer.

The United States has the safest transportation system in the world, but it can and must be improved. This means ensuring that transportation workers who literally hold hundreds of lives in their hands on a daily basis must be tested for illegal drugs. It means adequate staffing and efficient management of our air traffic control system. I means hands-on, head-to-head involvement in meeting the problem of international terrorism. I can assure you I plan to take a leading role in this area.

There are a number of other areas that I have discussed in my statement. I am committed to balancing our transportation needs, our safety needs across the board. I plan to devote a great deal of attention to the FAA. As a licensed pilot and one who loves aviation, I think I can make a contribution there, and I intend to do so.

Obviously, the railroad industry is also important, and I plan as part of our national transportation policy planning process to involve railroad interests across the board.

My new responsibilities, of course, also involve the United States Coast Guard. The Coast Guard has a number of challenges facing it. It has been providing a vital role in our country since 1790. It now has additional roles in law enforcement and drug interdiction. They must be supported at all levels, both financially and within the administration, and I am pledged to do so.

The merchant marine is an important part of our defense readiness. They also, through the Maritime Administration, must be supported. They have come upon hard times in recent years, and I hope as part of our national transportation policy, to work with that industry and to work with the people committed to a strong merchant marine to develop an effective program for the future.

Regulation of motor vehicle safety and fuel efficiency, as well as concern about drunk and drugged driving, will also demand the attention of the Secretary of Transportation. I know how important it is. I plan to address it.

While not directly within the committee's jurisdiction, I want to briefly touch on highway and mass transit assistance. These programs touch every state and every municipality and constitute a large portion of the department's budget. Important decisions must be made concerning the allocation of these funds if we are going to maintain our infrastructure. I hope to be able to play a significant role in that, recognizing the budget deficit problems that we have.

Finally, there is the area of transportation of hazardous waste and hazardous material. It is a serious problem. It is a safety issue. It is an issue I am pledged to examine as part of our policy and deal with accordingly.

As I assume office, if I am confirmed, I believe that my experience in law enforcement at the United States Attorney's office, in the transportation area at the Regional Transportation Authority and my personal interest as an active flyer in the environment will help me greatly as I put together a program and a policy for this nation, not only through the rest of this century, but far into the future.

I hope to be working with the Congress on a day-to-day basis as we deal with these problems. I am a team player. I play on the Bush team. I hope that you and I and all the members of the Senate and the House, we will also be team players. I pledge to do so.

I would incorporate my prepared remarks as part of the record, if I may do so.

[The statement follows:]

STATEMENT OF SAMUEL SKINNER

Mr. Chairman and members of the committee: My name is Samuel K. Skinner, and I am the President's nominee to be Secretary of Transportation. Mr. Chairman, I appreciate your willingness to schedule this nomination hearing as one of the Committee's first orders of business in the 101st Congress. I also thank you and the Committee's other members for the opportunity to visit with you individually. I believe those were very useful and productive discussions, and I hope our meetings marked the beginning of a good working relationship.

I am particularly honored by this nomination, not just because I have a strong personal interest in transportation, but because a safe and efficient national transportation system is so critical to a strong, vibrant economy.

If confirmed, my principal goal will be to develop a new national transportation policy that strengthens both our national security and our nation's economy. While I have not endorsed or formulated any particular policy blueprint, please know that I intend to fully take into account the views of members of this Committee, the Congress, the public, industry, labor and, of course, the President before moving forward. But if confirmed, I want to put into place a strategic plan for dealing with this nation's transportation needs into the next century—across all modes.

If we are to have a policy of this magnitude, I strongly believe we must take advantage of the synergy that exists between the various modes of transportation. Having brought modes together on a much smaller scale in my home state of Illinois, where we have the metropolis surrounding Chicago as well as a great deal of rural area, I am well aware of the competing interests that must be balanced. This will require a strong commitment to intermodalism, because cooperation within the Department as well as cooperation between the Executive Branch and the Congress is vital to success. So that there can be no doubt—my goals are to make travel safer, more efficient, and less expensive for the American consumer.

The United States has the safest transportation system in the world, but it can and must be improved. This means ensuring that transportation workers who literally hold hundreds of lives in their hands on a daily basis must be tested for illegal drugs. It means adequate staffing of and effective management of our air traffic control system. It means meeting head-on the gruesome threat of international terrorism with all the resources we can muster. I believe that the United States can and will take a leading role in combatting terrorism in the skies.

These are only a few of the numerous challenges we face. Economic deregulation of U.S. airlines has been a dynamic process benefitting millions of Americans in the past 10 years. But with deregulation has come a dramatic restructuring of the airline industry, something predicated but perhaps not fully appreciated back in 1978. The challenge today is to see that both safety and service excellence are preserved in this deregulated environment. Another issue that demands attention is the treatment of aging aircraft. We have to gather the facts and deal with this issue in an expeditious and decisive manner, so the American people can have complete confidence in the safety of our aviation system.

Other issues involving the FAA are familiar to you. Complaints about delays are as old as the airline industry itself. We have an immediate need for additional air traffic controllers to improve safety and on-time performance. And as a pilot, let me say air traffic controllers have one of the most difficult and high-pressure jobs in government: we will need to look at ways to make sure that we provide flexibility and support for the men and women in the tower.

The railroad industry has seen a similar restructuring under economic deregulation. However, we have to balance deregulation with our need to maintain safety and to ensure fair rates for all shippers.

The Coast Guard faces a comparable breadth of challenges. It not only plays a vital role in maintaining our national security, but performs important duties involving law enforcement and drug interdiction; monitoring fisheries and commerce: protecting the marine environment; and preserving the health and safety of boaters and commercial seamen. More and more Coast Guard resources are being devoted to drug law enforcement, which now comprises one-quarter of the Coast Guard's operating budget. I want to work with the Congress to ensure adequate funding of these missions, as well as the Coast Guard's traditional at-sea missions.

I view the merchant marine as another element of defense readiness. I believe that the primary objective of the Maritime Administration should be to ensure that the nation has sufficient sealift capabilities in the event of hostilities. Regrettably, we are experiencing a serious decline of this important link in our transportation system; the downhill slide must end. This Administration is committed to a comprehensive maritime policy with the ultimate goal of restoring the U.S. Maritime industry in the interests of economic and national security.

Regulation of motor vehicle safety and fuel efficiency, as well as working to reduce the carnage wrought by drunken and drugged driving, also deserve the attention of the Secretary of Transportation. While a small agency, the National Highway Traffic Safety Administration has an impact on the everyday lives of most Americans, even though the public may not realize it.

While not directly within the Committee's jurisdiction, I want to briefly touch on highway and mass transit assistance programs. These programs affect virtually every state and constitute a large portion of the Department's budget. Wise allocation of these funds will be essential to sustaining the nation's infrastructure. At the same time, we must remain mindful of the need to reduce the budget deficit. The President and I both support expenditure of these trust funds for the purposes for which they were intended, consistent with our ability to gradually reduce the deficit.

Another area of transportation policy that deserves high-priority treatment is that of hazardous materials transportation. There are few things more frightening to someone living near a major railroad line than a serious hazardous materials spill. The unknown characteristics of some materials, and the difficulty involved in containing them, only heightens concern. This issue represents part of the safety mission of this Department and will be carefully examined.

The President understands that all of these problems require an energetic, innovative management approach by the Executive Branch, building on the significant progress already made in many of the areas I have discussed. I think that the wide range of issues that we have only briefly covered this morning makes apparent the need for a new national transportation policy.

If confirmed, my first orders of business will be to assemble a management team at the Department, to formulate marching orders on the development of a national transportation policy, and to assist the President in developing this Administration's budget priorities in the transportation area. In doing so, I expect to consult with this Committee and the Congress on how best to accomplish our many transportation goals within a fiscally responsible budget. Some tough choices will certainly have to be made.

My experience in law enforcement at the U.S. Attorney's Office and in the transportation area at the Regional Transportation Authority of Northeastern Illinois have convinced me that even the most daunting problems in government can be resolved. While I realize the national issues facing the Department are far more complex and difficult than those we dealt with in Chicago, I believe the same kind of hard work, long-range planning and spirit of cooperation that succeeded there can achieve similar results at the national level. If confirmed, I hope to bring a full understanding of the complexities of the process, including the need for continuing interaction between the Congress and the Executive Branch, to the job of Secretary of Transportation.

Mr. Chairman, I appreciate very much this opportunity to come before the Committee today, and I am prepared to respond to any questions you or other Committee members may have.

The CHAIRMAN. It will be included and any opening statements of our colleagues will also be included.

Now, Mr. Skinner, there were certain concerns as to your appointment and confirmation by our distinguished colleague from Ohio, Senator Howard Metzenbaum. Do you have a statement in connection with those concerns?

Mr. SKINNER. Yes, sir, I do. Thank you.

Senator Metzenbaum has voiced concern over my nomination as Secretary of the Department of Transportation. The focus of his concern is my handling of an FDA request for a grand jury investigation of G. D. Searle when I served as United States Attorney for the Northern District of Illinois.

I first heard from the FDA regarding the investigation in April of 1976. At that time I assigned the matter to Assistant United States Attorneys, and they involved themselves for several months in investigating the matter.

The FDA's formal request for a grand jury investigation came to me in January of 1977. Senator Metzenbaum has made inquiries as to why this matter was not submitted to a grand jury before this formal request, given the fact that an argument could be made that the statute of limitations on one of the alleged offenses, fraudulent safety tests submitted on the artificial sweetener Aspartame, commonly known as Nutra Sweet, would run out in October of 1977.

On February 21, 1977, I learned that I would not be reappointed United States Attorney by President Carter. Shortly after that several law firms, including Sidley & Austin, initiated discussions with me relative to my joining the firm. Immediately after initial employment discussions with Sidley & Austin, I recused myself in a letter dated March 8, 1977, from the Searle matter so as to avoid any conflict of interest of even the appearance of impropriety.

The recusal letter, which I sent to my assistants who were handling the case and to Mr. Trienens of Sidley & Austin, indicated that the decision with respect to submitting the matter to the grand jury should await the arrival of my successor.

I thought that my successor would take office promptly and, therefore, felt it appropriate to leave the decision as to whether a grand jury should be convened on the Searle matter to him. As it turned out, it was actually a period of some four months until Mr. Sullivan was sworn in.

Senator Metzenbaum has pointed out that in his opinion the statute of limitations on the Nutra Sweet matter was due to expire. Also in my recusal letter I stated that the fact of my discussions with Sidley & Austin was to be kept confidential "in order not to embarrass the firm of Sidley & Austin."

Four months after I wrote my letter or recusal, I became a partner at Sidley & Austin. I am frank to tell you that Department of Justice regulations required that a copy of that notice be forwarded to the Department of Justice in Washington, and I am frank to tell you I have never recused myself in any matter before because I was a career

prosecutor, and while the act of recusal took place, a formal copy of my memo was not submitted to the Department of Justice according to regulations.

A month after I wrote my recusal letter, Acting United States Attorney Kocoras sent me a memo stating that it would be "inappropriate to delay the decision on submitting the Searle matter to the grand jury until the appointment of my successor." Mr. Kocoras stated that a grand jury investigation should be undertaken at the earliest practical time.

Senator Metzenbaum has also questioned why I told Sidley & Austin that the inquiry should be limited, at least at the start, to Aldactone. In summary, Senator Metzenbaum has raised five principal concerns: my role in what he considers an undue delay in submitting the Searle matter to the grand jury, my failure to send a copy of my recusal memo to the Department of Justice and the FDA, my instructions to my subordinates not to convene a grand jury investigation until the new United States Attorney was appointed, my advising Sidley & Austin that the first inquiry was to be limited to Aldactone, and my becoming a partner in the firm that represented G. D. Searle in this investigation.

Senator Metzenbaum has also inquired of me concerning an AMA postal matter that was in our office in 1976. The AMA was also represented by Sidley & Austin.

I have discussed all of these issues at length with Senator Metzenbaum and his staff. He has also met with Mr. Newton Minow of Sidley & Austin as well as various other persons. I have informed the senator while I probably made some mistakes in this matter, particularly with regard to the recusal memo I discussed.

However, after discussing this matter with Senator Metzenbaum, I believe that he is now satisfied that Sam Skinner is a person of integrity and that I did not intentionally delay or forestall the grand jury investigation of either G. D. Searle or the American Medical Association.

The CHAIRMAN. Very good, Mr. Skinner.

Senator Danforth and I, on behalf of the committee, want to complete that chapter for the committee and then go on to the concerns that we all have on the committee with respect to transportation.

Senator Metzenbaum raised the question and you and I have been visiting now back and forth for the last three weeks at least—instead of Santa Claus I got you this Christmas.

Mr. SKINNER. Scrooge?

The CHAIRMAN. I want to just say this, that Senator Metzenbaum's concern, no question, was well-founded in that there was a difference between the FDA and the U.S. Attorney's office with respect to this matter.

Only this morning in talking with Senator Metzenbaum, he asked that I ask a question. He has prepared it as a statement which states: that the commissioner of the Food & Drug Administration at the time, Mr. Donald Kennedy, wrote to your successor as U.S. Attorney, Mr. Sullivan, following the announcement that there would be no indictment of Searle and stated in that letter, and I quote, "On the basis of

the investigation you concluded that no criminal prosecution should be brought. The FDA would have reached a different conclusion. Our office of general counsel is of the view there was probable cause to believe that a crime was committed by Searle."

Is that the case as you understand it, too, or do you know?

Mr. SKINNER. Yes, sir. I would suggest that it may be appropriate to make as part of the record a copy of the letter that the Director or the Commissioner of Food and Drugs sent to Mr. Sullivan.

As you recall, Mr. Sullivan made the decision in this case in January, I believe, or in late 1978, some 20 months after I left office. There was an honest difference of opinion between Mr. Sullivan, the U.S. Attorney appointed by President Carter, and the Food & Drug Administration. That disagreement, that honest disagreement is summarized in a letter that Senator Metzenbaum has provided me as well as you, and I would suggest that that letter along with my letter to you, which was copied to Senator Metzenbaum and to Senator Danforth be made a part of the record.

The CHAIRMAN. It will be so included without any objection.

[The letter follows:]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
FOOD AND DRUG ADMINISTRATION,
Rockville, MD.

THOMAS P. SULLIVAN,
U.S. Attorney, Northern District of Illinois, U.S. Courthouse, Chicago, IL.

DEAR MR. SULLIVAN: I have received your thoughtful letter of January 29, 1979, summarizing your reasons for declining criminal prosecution and concluding the investigation of G. D. Searle and Company and certain of its present and former employees for failure to make timely submission to FDA of tumor findings in the firm's 78 week study on Aldactone. You concluded that FDA's regulations governing the reporting of data for IND and NDA drugs, as applied to the particular facts surrounding the Aldactone study, did not create an obligation enforceable in a criminal context. While recognizing that these regulations were not intended to be a criminal code, you recommend that certain clarifications be made, through FDA rulemaking procedures, to facilitate criminal enforcement of the regulations under 21 U.S.C. 331 and/or 18 U.S.C. 1001.

I am aware of your personal participation in lengthy deliberations in which every facet of the Searle case was discussed by you, senior members of your staff, the Assistant United States Attorneys who directed the Searle investigation, and Mr. Levine of our Office of Chief Counsel. I appreciate the depth of your involvement in the decision making process.

The consequence of the absence of specificity in the regulations on the one hand and Searle's application of them on the other, as revealed by the facts of this case, is particularly distressing. It has been the position of FDA for 13 years that the IND regulations for prompt reporting of significant hazards apply to animal studies. Our position has been well publicized and the extent of compliance by other firms demonstrates that industry generally has understood our position. Although the regulations do not explicitly require that the data be submitted if suspected of being inaccurate, FDA's experience has been that drug firms routinely report questionable and preliminary findings of animal studies to FDA.

I concur that our codified regulations must be, to the extent practicable, precise and complete. For this reason, a review of all FDA regulations requiring reporting of adverse findings resulting from therapeutic use and investigation of products within our jurisdiction is currently underway. Some time ago, we proposed certain modifications in the IND reporting requirements for long term animal toxicity studies. See *Federal Register* of July 15, 1977 (42 FR 36490). FDA has recently announced a major commitment to rewrite the IND/NDA regulations. Public notifications of the Agency's intent was published in the *Federal Register*, as part of a list of significant regulations under development. See *Federal Register* of January 19, 1979 (44 FR 2464). Although the Agency decided independently to redraft the regulations, your letter of January 29 and the termination of the Searle investigation without indictment have re-enforced by belief that clarification is necessary.

FDA asked that you initiate a grand jury investigation into Searle's handling of data from its study of Aldactone. You accepted our recommendation and expended considerable resources, for over a year proceeding with the investigation. On the basis of the investigation, you concluded that no criminal prosecution should be brought. FDA would have reached a different conclusion. Our office of General Counsel is of the view that there was probable cause to believe that a crime was committed by Searle. I am aware, however, of the legal dificulties presented by the case, as well as by the scientific evidence critical of the Mauro report. The upshot, it seems to me, is that this is a case about which reasonable government attorneys may differ. I am satisfied that you and your office have thoroughly reviewed the case and have exercised your best professional judgment. I recognize that your decision is final. FDA will not seek further consideration of the matter.

Very truly yours,

DONALD KENNEDY,
Commissioner of Food and Drugs.

The CHAIRMAN. And for my colleagues, as you can see, I have a flow chart recording the key events in this matter. Had we not really disposed of this to our satisfaction, it would have taken us a good three to four days of hearings to go into every little item of a 15-year period.

Specifically I talked with Mr. Thomas Sullivan yesterday afternoon. Mr. Sullivan came on board as U.S. Attorney in July of 1977 after Mr. Skinner was rot reappointed to that possition. I finally got in touch with him, and there is no question in my mind about this. He said you had absolutely nothing to do with the Searle case whatever after he took it over in July of 1977. Since it was dropped in December of 1978, he had all of that time as President Carter's appointee as U.S. Attorney to have handled the case.

Mr. Sullivan said he had full staff on it. It was not treated casually. It was treated very, very seriously, and that you Mr. Skinner, had absolutely nothing whatsoever to do with the case from the time that he took it over. Mr. Sullivan informed me that he did not bring it because it was not a proper case to bring. There was insufficient evidence that Searle had committed any crime.

Mr. Skinner had, and I use again Mr. Sullivan's quotes, "absolutely and firmly nothing to do with the case." He considered you a man of impeccable integrity, and told me it was wrong, absolutely, to suggest that you had acted improperly in any way. And I want to put that in the record, too, because if it had been necessary, I would have asked Mr. Sullivan to come. I do not think that is necessary.

I think the committee should know that Mr. Skinner has been completely cooperative in regard to this matter. He has visited with Senator Metzenbaum on several occasions and with me on numerous occasions because I had at first misgivings. Not only has he cooperated with that, but we also got into a discussion with respect to the FBI report.

Under the custom, the chairman and the ranking member view FBI reports for prospective nominees, and then the members supposedly trust us to reveal anything. I told Senator Metzenbaum I would reveal anything in reading the report. However, he wanted to see it himself. He allowed as how on the Judiciary Committee with a judicial appointment each of the Senators on Judiciary are allowed to see the FBI report. That has not been the practice by which administrations have submitted FBI reports before this committee, but that is not a disputed difference between Senator Metzenbaum and you, Mr. Skinner. That is a concern that we would have as senators in the leadership in the United States Senate with the particular administration at hand. So, that does not reflect on you in any way.

On the contrary, you were glad for him to see the FBI report. I think the record ought to show that.

And finally, Governor Thompson got me yesterday, and now you have seen all of the others who attested to your integrity and your capability. So, I am very pleased to be able to support you enthusiastically.

Having said that, I might have left something out of the record. I think I want to yield to our former chairman. Here is Senator Danforth so that with our time schedule we may both clear this up, and I think that will save the committee's time.

Senator DANFORTH. Mr. Chairman, thank you very much. I did spend three hours yesterday reading the FBI file. Because of the concern that had been expressed by Senator Metzenbaum the FBI did, I would say, a very exhaustive investigation of the whole background of the Searle case, and in that investigation they interviewed any number of people, a number of former Assistant Attorneys General, the Deputy Assistant Attorney General, who is now a federal judge in Chicago, your successor Mr. Sullivan, who is a Carter appointee as U.S. Attorney for the Northern District of Illinois.

And having read all of these reports, I can say that in my opinion, there really is no basis whatever for any concern. I think that you handled this matter properly, and that is the consensus of the various people who worked on this matter, including the official of the Food & Drug Administration who was detailed to the case.

I would like to just review briefly some of the facts. I do not intend to go on at great length because I think you pretty well covered this matter in the letter that you wrote to Senator Hollings, but in point of fact—and correct me if I am wrong—the decision not to prosecute G. D. Searle was not made by you.

It was, instead, a decision that was made by Mr. Sullivan, who was the Carter appointee as U.S. Attorney. He took office on July 11, 1977. And, after a very extensive review of the case, he made the decision not to go forward with the prosecution of G. D. Searle with respect to either Aspartame or Aldactone, is that not right?

Mr. SKINNER. That is correct, Senator.

Senator DANFORTH. And his decision, which is reflected in the letter that he wrote to Donald Kennedy, the Administrator of the Food & Drug Administration, at no time mentions any problem with the statute of limitations. Rather, it was a decision based on the facts of the case and based on the judgment of your successor, Mr. Sullivan, that the evidence was not sufficient to go forth with the case. Right?

Mr. SKINNER. That is correct.

I have also been given a letter which we offered for the record which was a response from the Food & Drug Administration concerning that earlier letter. In that letter they acknowledged they accept the decision and they acknowledge that there might have been an honest difference of opinion as to the sufficiency of evidence. But that responsibility is charged under law with the United States Attorney, Mr. Sullivan, and that decision was made some 20 months after I left office.

Senator DANFORTH. So you had nothing to do with that decision?

Mr. SKINNER. No, sir.

Senator DANFORTH. And there was no reference in that letter, in those communications, to any problem at all with the statute of limitations?

Mr. SKINNER. I do not believe there was. Not that I see.

Senator DANFORTH. You received a letter from the FDA in April of 1976, but my understanding of the standard practice of the Justice Department was that the triggering event for the U.S. Attorney's Office taking up a case was the submission of a formal request for a grand jury investigation and that formal request came in January of 1977, not in April of 1976. Is that not right?

Mr. SKINNER. The formal request was received in early January, 1977. Yes, sir.

Senator DANFORTH. And that, rather than the previous letter, was the triggering event as far as the jurisdiction of the U.S. Attorney's Office was concerned.

Mr. SKINNER. Yes, sir. But to complete the record, I want to indicate that at the request of the Food & Drug Administration, when in April of 1976 they advised our office that they had this investigation going on, pre grand jury investigations, they asked for an Assistant United States Attorney to be assigned as a liaison with them. That was done. That was in a liaison capacity.

The primary thrust of the review at that time was being done by the Food & Drug Administration in what is known as a "305 hearing," yes, sir.

Senator DANFORTH. And the 305 hearing is basically a gathering of facts. As far as the prosecutor is concerned, does it amount to discovery and getting the facts together in preparation for any subsequent case?

Mr. SKINNER. Yes, sir. A 305 hearing, where various witnesses testify and documents are produced, would be very helpful to anyone who is making a decision on a matter, because they would have sworn testimony under oath upon which to base a judgment.

Senator DANFORTH. Now, you found out for certain on February 21st, 1977, that you would not be the United States Attorney any longer, or after your successor had been qualified for the office, and that Mr. Sullivan was going to be the next United States Attorney. After that announcement was made, several law firms in the Chicago area got in touch with you in order to find out about employment possibilities after you left the U.S. Attorney's Office. Is that right?

Mr. SKINNER. Yes, sir. That is correct.

Senator DANFORTH. Sidley & Austin was one of those law firms, and it also was the law firm that was representing G. D. Searle.

Mr. SKINNER. That is correct.

Senator DANFORTH. And Sidley & Austin did not communicate with you with respect to employment opportunities prior to the announcement of Mr. Sullivan's appointment on February 21st?

Mr. SKINNER. That is correct. Basically I was the first career prosecutor to be selected as the United States Attorney in the district. I was into the job some 20 months and wanted to stay. I had every reason to believe, given my career status, that I might be retained; and I was quite surprised on February 21, 1977, when the decision was made to replace me. And it was then and only then, that I began any

discussions with law firms about an alternative, because prior to that I had no discussions—refused to partake in any discussions—because I thought I was going to stay.

Senator DANFORTH. And on March 8, 1977, you recused yourself from further participation in any matter relating to G. D. Searle. Is that right?

Mr. SKINNER. That is correct.

Senator DANFORTH. And prior to March 8, the day of the recusal, you had not received any job offer from Sidley & Austin?

Mr. SKINNER. No, sir. I had not.

Senator DANFORTH. The job offer from Sidley & Austin came, what—a month or so after that date?

Mr. SKINNER. Well, we have tried to fix that. I would guess it came a couple of months—I started immediately upon receiving contact. I entered the recusal memo and put it into the file, removed myself from the case, and then began discussions.

Senator DANFORTH. And in the recusal memo you designated, did you not, a couple of Assistant U.S. Attorneys to handle this case?

Mr. SKINNER. Yes, sir, I did.

Senator DANFORTH. And you also stated that for the purpose of any further matters relating to the Searle investigation, if the Assistant Attorney Generals wanted to consult a higher up in the office they should consult the first Assistant Attorney General whom you said would be, for the purposes of this case—I am sorry, not Attorney General. The first Assistant U.S. Attorney, who for the purposes of this case would be the U.S. Attorney.

Mr. SKINNER. That is correct.

Senator DANFORTH. And subsequent to that time, the recusal, the investigation within the U.S. Attorney's Office as to G. D. Searle continued to proceed, did it not?

Mr. SKINNER. It appears. I, of course, have no first-hand knowledge of that, because I was totally removed as of the date of the recusal memo. I have subsequently reviewed certain documents provided to me by Senator Metzenbaum, and in my discussions with Senator Metzenbaum he has indicated to me—he has showed me certain documents that he has obtained from the Department of Justice that indicate that Mr. Kocoras, sometime after March, decided not to wait for Mr. Sullivan's arrival and started an investigation which continued through Mr. Sullivan's arrival and through the winter of 1978. Yes, sir.

Senator DANFORTH. And Mr. Kocoras did state to you though, in a memorandum, that just for your information he was proceeding to prepare the case for a grand jury even before Mr. Sullivan arrived.

Mr. SKINNER. Yes, sir. He sent me a copy of the memo for information purposes only, and not for any action. That, frankly, is the last correspondence I had on the matter.

Senator DANFORTH. You had nothing further to do with the G. D. Searle case after March 8th, 1977?

Mr. SKINNER. That is correct.

Senator DANFORTH. And after your employment by Sidley & Austin you had no connection with that case? You did not serve as the advisor to the law firm, or to G. D. Searle, with respect to that investigation?

Mr. SKINNER. No, sir, I did not. In fact, when the case was eventually declined, I learned of that through the newspapers.

Senator DANFORTH. Now, when you said that you wanted the recusal memo to be kept confidential in order not to embarrass the firm of Sidley & Austin, what did you mean when you said that?

Mr. SKINNER. I did not want to conduct my negotiations in the newspaper. I was flattered to be called by a number of law firms, and they asked me if I would consider joining them. I wanted to have confidential discussions with all of those firms. I wanted them to feel comfortable to have discussions with me.

I did not want it known in the papers that I was negotiating with X, Y or Z; for it to appear that I was using one firm to leverage the other firm for more money or for a job offer. I felt those firms had a right to negotiate with me in private.

They had a right to make an offer. They should not be leveraged, and more importantly, if I turned down law firms—which I did, Senator Danforth—I wanted those firms to be comfortable, and I would not want to embarrass those law firms by having it known, publicly, that they made me an offer and I declined their offer. That might cause some kind of image in the community, that I chose one over the other, and it might reflect adversely on that law firm. That is the reason.

Senator DANFORTH. Now, with respect to the running of the statute of limitations, or the possible running of the statute of limitations in October 1977. First of all, that is a matter of legal opinion, is it not, whether any part of any charge against G. D. Searle would have run in October of 1977?

Mr. SKINNER. Yes, sir. Although a strong argument can be made, as I have said in my statement. A strong argument can be made that certain counts of a multiple count indictment might have run in the latter part of 1977. A strong argument can be made, and an argument can be made otherwise. The statute of limitations sometimes is difficult, but in a case like this, there were certain reports submitted early. Five years from that date would have been in October of '77, so a strong argument can be made the statute ran in the fall, and I stated that in my statement.

Senator DANFORTH. But as of October 1977, Mr. Sullivan had served as U.S. Attorney for about three months.

Mr. SKINNER. Yes, sir.

Senator DANFORTH. In your opinion, would that have been sufficient time for him to have secured an indictment for that portion of the case against G. D. Searle that the statute of limitations may have expired on in October?

Mr. SKINNER. Clearly, from a time period perspective—you know—devoting proper resources to the case, you could have completed an investigation sufficient to that count.

I want to make clear, however, there were other counts and other legal arguments that could have been made that would have stretched it.

But frankly, Senator, on March 8th I got out of this case. I was not privy to all of the evidence that came over. I did not look at it all. I am not sure what the status of the investigation was when it came over to the office.

The 305 hearing and information should have been very helpful to the prosecutors; and through the summer, they could have convened a grand jury and called witnesses in. So there was ample time.

I also would indicate that the key question, of course, here is, as I have indicated, the Food & Drug Administration thought this was a prosecutable case. Mr. Sullivan thought it was not a prosecutable case. The statute of limitations is only relevant when you have evidence sufficient to warrant a prosecution.

So, the real linchpin here is the honest disagreement between the United States Attorney and the Food & Drug Administration, and the Food & Drug Administration in their letter acknowledged that reasonable men could differ on whether this was a prosecutable case.

So I think the linchpin is the evidence that was gathered, and whether it warranted prosecution, not when the statute of limitations ran. But on one count, I think you could make a strong argument that at least on one document, one submission, it might have run. But there was sufficient time to conduct a full investigation.

Senator DANFORTH. All right. I only have one more question. You said in your statement that, "I have informed the Senator'—that is, Senator Metzenbaum—"that I probably made some mistakes in this matter.'

The only mistake I can find in three hours of looking through the record, and looking at the statements of all kinds of people who were involved in this, was the technical mistake of not sending a copy of the recusal memorandum to the Justice Department in Washington. Do you have any other mistakes in mind?

Mr. SKINNER. Let me reflect on that a minute. I, as a career prosecutor, was not conflicted during my term of office from any matter.

I was not familiar with recusal procedures because I really did not have to do them, because I did not have the normal impediments that a lawyer from private practice might have. With possibly one exception on an individual, this was the first recusal memo I ever wrote, and I only wrote it because I was leaving office and beginning discussions.

I subsequently have gone back and looked—at the request of Senator Metzenbaum—I went back and pulled the Department of Justice regulations and found that, in addition to recusing myself, a copy of my recusal should have been sent to the executive office for U.S. Attorneys, which is the personnel office.

It is not a substantive office. It is a personnel office, and I did not send that copy—although I do believe that both the FDA and the Department of Justice probably knew of my recusal because they were actively working with assistants on the case.

I also, as I have indicated, I wanted Mr. Sullivan, the United States Attorney, to make this decision. I said, hold it for a period of what I thought would be a short period of time. I probably just should have said, Mr. Kocoras, here is the case.

Mr. Kocoras recognized shortly that he was the United States Attorney because I had recused myself, and took steps to actively investigate the matter.

So in all fairness, one mistake was not sending the copy—I just want the record to be complete. And number two, technically, I probably should have said, Mr. Kocoras, "handle it."

He sensed that there was no evil intention, no attempt to delay. It was just, "Mr. Sullivan's coming in; it is a massive investigation. Let him make the decision." Kocoras said, "we cannot wait," and he went forward.

Senator DANFORTH. There was no ulterior motive——

Mr. SKINNER. No, sir.

Senator DANFORTH. —of not submitting the memorandum to the Justice Department?

Mr. SKINNER. No.

Senator DANFORTH. In fact, you behaved in exactly the same way whether or not the memo was submitted to the Justice Department?

Mr. SKINNER. Yes, sir. They did not have a record of it in the executive office for U.S. Attorneys, which is the personnel office for U.S. Attorneys. Had I—experience counts, and had I done half a dozen of these, I would have known to send a copy to them as kind of a courtesy copy so they know what you are doing out there.

Senator DANFORTH. Again, having looked at the record and hearing your answers, I am perfectly satisfied, and to subject you to undue criticism because of either a misjudgment of the timing of Mr. Sullivan's arrival or the formal requirement of submitting a copy of a memorandum to an office in Washington, I think that that is really overdoing it.

Mr. Chairman, I thank you for your patience.

The CHAIRMAN. I thank you. Now, Senator Metzenbaum has issued the following statement, and I quote it:

"I have spent many hours on this matter, including lengthy discussions with Mr. Skinner and many others. I have found Mr. Skinner to be cooperative and was impressed with his forthright responses to my questions. Mr. Skinner has acknowledged that he may have made mistakes in his handling of the Nutrasweet investigation. I believe him to be a man of integrity, and in view of his statement before the Commerce Committee, I do not intend to object to his nomination as Secretary of Transportation. Absent any new developments, I expect to vote to confirm Mr. Skinner."

Now, let me yield to any of the colleagues, any of the senators that have any questions on this Food & Drug case. I think that will save us all time, unless you want to revisit it.

[No response]

The CHAIRMAN. Very good.

I think we have satisfied a three day situation in a good 40 minutes, and it has been worthwhile to everybody. You both have been very sincere and conscientious in this whole matter, and I thank Senator Metzenbaum and I thank you, Mr. Skinner.

Now, we can start the clock. I cannot get in all of what I want, none of us can. But in the five minutes that I have on the first round, I want to get right into the matter of the Coast Guard.

Mr. Skinner, I once asked one of the Secretaries of Transportation, Secretary Volpe, we served as governors together, and I asked him one day, I said, John would you, if you organized the government, put the Coast Guard in the Department of Transportation? And he said, no.

That brings to mind that there has been a sort of casual attention given to the Coast Guard. It runs. It operates. In fact, in my judgment, it does extremely well with limited resources, and that is my point. The first gentleman in my office last year was Admiral Yost, the Commandant. He was cut $100 million under the so-called summit agreement, which I voted against, and there was a struggle all year long to replace the $100 million. Now, again, we are still short-changed in the overall drug bill. We are another $100 million shy there.

With respect to the Coast Guard entity itself, what we did a good 14 years ago was increase the size of the United States by one third when we extended the fisheries jurisdiction. Thereafter with the executive order, we increased the economic jurisdiction to 200 miles.

We literally enlarged the United States, and gave the police power over to the Coast Guard, and thereafter, in a 10-year period, we have gone into a drug war situation. With all of that, we have got less manpower; we have got less ships. Right to the point: what is your comment? What can we do to give that entity in your department the proper consideration?

Mr. SKINNER. Senator, I think you have identified a very real problem. The Coast Guard since 1790 has been performing a vital mission for this country, both in peace time and in war time. Recently, they have been given a new mission—drug interdiction. It is a mission that they are doing very well, from everything I have been able to learn.

I plan to go to the Caribbean in the near future with the Coast Guard and learn first-hand how that operation is working, but from what I have seen in my meetings with the Coast Guard they are doing a good job, and we cannot ask an organization to take on a substantial new mission without funding them properly.

Budget is a problem this year. It is at the top of my list. I will be meeting next week, if I am fortunate enough to be confirmed by the Senate, with all of the administrations, including the Coast Guard, on the budget problem. But I am pledged, as I have pledged to Admiral Yost and his command staff last week when I met with him for three hours, to do everything I can to support them, not only in their traditional mission but in their new mission, drug interdiction.

One final point. As a former United States Attorney, former Vice-Chairman of the President's Commission on Organized Crime, I know the importance of drug interdiction. I want to help them any way I can.

President Bush has indicated to me that he wants me to use my experience in law enforcement to work with the Coast Guard, and I believe he will also give strong support to the Coast Guard, both in funding and in mission support.

The CHAIRMAN. Very good, sir. Now, with respect to the Federal Aviation Administration, there has been a cleavage there. There was not under Drew Lewis, but politics entered in in the last administration, and in frustration, under the leadership of our distinguished member here, Senator Ford of Kentucky, we have a bipartisan bill in for an independent agency.

I will not go into the details there—with our limited time, I will yield to Senator Ford and his leadership on this issue—but I am getting specifically at the Airport and Airways Trust Fund.

Now here I am, I am traveling back and forth every week. I am paying in my 8 percent into the trust fund, and the FAA, in an approved study, has determined that in a 10-year period we need $24 billion in airport improvements, or $2.4 billion a year. The money is there. I have got $6 billion backed up that I am not spending except, as you know, to take care of the political deficits.

I am putting an IOU back in the fund and using money on the deficit. It is totally wrong. We have got to correct this. While the money is there and it is allocated as trust money only to be expended, why can we not get it up rather than to $1.35 billion, why cut it a billion when there are needs galore out there and we get ahead of the curve. With inflation coming on, we will get better contracts now than we will get at this time next year.

Let us move into the needs of the airports. The money is there. Why the snarl? what about it? What are you going to do as secretary?

Mr. SKINNER. Well, I think it is quite clear in my discussions with various members of the committee, various people within the Federal Aviation Administration, that we have a crying need, not only in infrastructure but in capacity within the aviation system of our country.

And the only way we are going to do that is, number one, identify our needs long-range with our national transportation policy, and then number two, we are going to have to find sources to fund.

I am going to do everything I can, because I understand that mission at the FAA. I have visited the tower. I have visited with controllers. I know the importance of spending money at the FAA across the board, and I am going to also be a very strong advocate for additional funding for the FAA and to spend, as the President said in his message, as soon as possible, the money in the trust funds for the purposes that they are intended.

The President is pledged to that, consistent with the problems that we have with the deficit, and I am going to carry out his promise to the best of my ability.

The CHAIRMAN. That is good, because I asked a year ago the FAA to give me a list. I was not applying for any particular airport or anything. I said give me your list for the billion that we cut short, because the money is there and it can be expended judiciously, and I have yet to get that list. No response.

I see my time is just about up. Let me ask one thing on random drug testing for safety-sensitive transportation workers. Why do the department rules not include liquor? You have new rules requiring random drug testing on the controlled substances but not on alcohol. What about it? Senator Danforth and I put alcohol in the billthat was adopted twice by the Senate last Congress.

Mr. SKINNER. Well, I think frankly, Senator, you have addressed a problem that is of great concern to me. I think alcoholism and alcoholics in safety-related positions in transportation must be addressed, just as drugs must be addressed.

I will pledge, as Secretary of Transportation, to evaluate the entire policy, and I hope to have a meaningful policy developed dealing with the problems of alcoholism, because I have talked to people within the airline industry and with other industries, and while they object to some aspects of the random drug testing programs, when I bring up alcoholism, as I have, they all say that that is an area and an issue which should be addressed, so I plan to address it. I share your concerns.

The CHAIRMAN. Very good. Senator Danforth would yield now, because he has said he has already had a good time, and so have I. I have then listed Senators Packwood, Rockefeller, Stevens, Bryan, Burns, McCain, Inouye, Breaux, Ford and then Senator Danforth. Senator Packwood.

Senator PACKWOOD. Mr. Skinner, you get lots of tough questions on the budget, so I will not ask you about that. Let me ask you two easy ones.

Mr. SKINNER. Thank you. I appreciate that.

Senator FORD. Let us hear them first.

Senator PACKWOOD. What do you think about further truck deregulation?

Mr. SKINNER. Well, deregulation has basically been very successful in some areas—in many areas of this country. I believe that truck deregulation is effective; and I am looking forward to further truck deregulation, because that is basically the President's position, which I support. So I think I will be a strong proponent of further deregulation of the trucking area. I think it has to be done carefully and cautiously, recognizing the impacts, but I support the President's position on that.

Senator PACKWOOD. Good. I am glad to hear that. Two: on the rails and short lines, we have had a close vote on this committee, but not on this. We have had it on the Staggers Act.

We have had about 190 short lines, new carriers, created, basically spinoffs from the older railroads lines that I think would have been abandoned had they not been able to spin them off, and one of the advantages from the buyers who were spinning them off is that they were not subject to the old labor regulations on the railroad that spun them off.

We now have a lawsuit going as to whether or not the labor contracts do apply to the new railroads. Most of the sales have stopped, and nobody knows what the situation is going to be.

If the court were to say, no, the labor rules do apply and you cannot spin off the railroad without taking a labor contract with it, do you think we should have legislation changing that?

Mr. SKINNER. Well frankly, Senator, I have not had a chance to study that issue in any depth. I do believe that on the issue of deregulation and those areas that are left for regulation by the Interstate Commerce Commission, that that is the law of the land and it should be obeyed and it should be done efficiently and effectively.

But I have not had the opportunity to discuss that legal issue, which as you understand probably would be the subject of sufficient debate and a great deal of legal research and legal briefs. So I would ask to reserve my judgment on that; but I do pledge to you that I will examine that issue, and I assume the department will have a position at the appropriate time.

Senator PACKWOOD. I want to make clear that this is not basically a deregulatory issue. I think the railroads under the law could legally abandon the lines if they wanted to, but there are enough businesses on them that if the cost can be cut a bit, somebody can buy the railroad and make it go. It is just that the old railroad cannot make it go, given the work rules that they have. So they can sell them, or they can abandon them.

Mr. SKINNER. Well, I think it is important that areas of the country that rely on the short lines, or the lines that are served now by short lines, that that service be maintained in a reasonable way, so I do not think that we can just pull the rug out from under many parts of this country and deprive them of service that now would be provided by short lines.

I have spent a number of hours on the Hill with each member of the committee, and I have heard from a number of members of the committee the importance that the short lines play to shippers in their area, and I think they have got to have this mode of transportation. We have just got to find an effective way to do so.

Senator PACKWOOD. Mr. Chairman, I have no other questions. I just want to comment, in the short meeting we had in my office, I have got to confess I have seldom run across anybody that I think has as much savvy as you do, Mr. Skinner. You are not coming into politics new, even though you have never run, but you have certainly been versed in politics, and certainly in the U.S. Attorney's office, and I just think you are going to do a hell of a job.

Mr. SKINNER. Thank you very much. I appreciate that, and I pledge to work with each and every one of you in doing that job.

The CHAIRMAN. Senator Rockefeller.

Senator ROCKEFELLER. Thank you, Mr. Chairman. Just starting off, I would like to genuinely thank the chairman of this committee, Senator Hollings, and Senator Danforth for what I thought was an extraordinarily professional, dignified, thorough way in which you handled the first matter that we were discussing this morning.

Frankly, just sitting as a committee member unfamiliar with that, it made me very proud to have you as chairman and you as the ranking member. I congratulate you both.

Mr. Skinner, we had a very good conversation about the Essential Air Service Program, and you are going to hear a lot about that. I am going to be introducing a resolution, a sense of the Senate resolution, this afternoon on Essential Air Service at 2:00.

Now, let me just give you a scenario. West Virginia has a lot of economic problems. We are trying to broaden our industrial base. That is tough to do. We do not have a lot of flat land, so tourism is very important to us. Seventy-seven percent of our land is covered by trees. We have a beautiful state.

So I arranged for some international airline executives to come to West Virginia to look at setting up tour packages to increase the volume of tourism, not only from this country but also from folks overseas. I arranged to have them go to some of our best places and most beautiful places, and they basically said at the end, you have got to have better air service; and they took their business elsewhere, to so-called "more accessible' places.

I don't think there is any way to describe how important the Essential Air Service Program is to rural America, not just to West Virginia, but to rural America.

The Department of Transportation put out a notice of proposed rulemaking giving a 60 day extension, et cetera. But I would like to know, Mr. Skinner, that for those of us from rural States, who depend upon at least a minimal part of air transportation—and, since deregulation, most of the big part of it is gone, and we really depend upon commuter systems and those depend, in part, upon Essential Air Service backup—that you, as Secretary of Transportation, would be supportive of that program.

Mr. SKINNER. Senator, in my visits on the Hill, that is probably the subject I heard the most about, the need for essential air service. I think I understand the need.

Deregulation has had a lot of benefits to this country in the area of air deregulation. But capacity is an important ingredient in any effective deregulated environment. I think it is very important that, as we move toward a further deregulated environment, we address the problems of capacity and that we also address the problems of essential air service on a realistic basis.

In the Bush Administration, a new budget, dealing with the problem of essential air service, will be out shortly, and we will get a better feel for where they stand on that issue.

In the meantime, there appears to be significant sentiment and support for a reauthorization or a supplemental appropriation or a reprogram to deal with the current problem.

I want to work with the Congress in reaching a solution to that if we possibly can because it appears to me that it would be foolish, if the sentiment of the House and the Senate is to pass a supplemental appropriation, to pull the rug out from under all of these carriers and all

of these towns, and then find that three months later a supplemental is passed, but the carriers don't want to go back in.

So I have pledged to work with the Congress. I have talked to a number of Senators about it. I am optimistic that we will be able to solve the problem in the short-range, and I will be examining the problem in the long-range after I get direction from the White House on the new budget.

Senator ROCKEFELLER. I am very glad to hear that, Mr. Skinner because, to be honest with you, a community in West Virginia, in another rural area, in order to have any hope for growing and for attracting business, we have to be linked up with more major population centers. Business people and travellers have to be able to get in and out of our States.

After deregulation, that has become very difficult in any event. Essential Air Service really is the key.

I might just put in for the record that one of the policy objectives of the Federal Aviation Act, which was part of the Airline Deregulation Act of 1978, reads as follows: "The maintenance of a comprehensive and convenient system of continuous scheduled interstate and overseas airline service for small communities and for isolated areas in the United States, with direct Federal assistance, where appropriate.'

It's written into the law. We've got to have it.

I appreciate your reaction to that question.

I'd like to move on to another one that has to do with linking up, in terms of transportation, which you and I also discussed. Your answer, as we talked in private, I thought was very helpful.

The Appalachian Regional Commission was formed in 1965 to take 13 Appalachian States or parts of those States—West Virginia is the only one which is entirely Appalachian—it was formed because we had special economic problems, special problems of poverty, special problems of transportation.

The Appalachian Regional Commission has done a tremendous job on that.

But the one work that is not yet finished is the Appalachian Regional Corridor System. Those link up the interstates of our Nation and, because of the rugged terrain, the mountainous terrain of Appalachia, the corridor system is absolutely essential.

Now you and I talked. In fact, I have a proposal that I am going to be making, hopefully, to President Bush within the next week, with my colleague, Senator Byrd, that would provide Appalachian Regional Commission funds, with funds from the Highway Trust Fund surplus, a surplus much like that which Chairman Hollings referred to in terms of the airport trust fun. Trust fund allocation, with State matching would allow all 13 Appalachian States to finish their corridors by the year 2000.

I just want to know, as we head into that discussion, which is partly policy and partly budget, that you, as Secretary of Transportation—and I'm going to vote for you—that you will be willing to work with an open mind——

Mr. SKINNER. Those are the right words.

Senator ROCKEFELLER. —to try to be helpful to us in that pursuit.

Mr. SKINNER. Those were the right words, Senator.

Senator ROCKEFELLER. This is probably a good chance, Senator Rockefeller, to talk about what I mean by a "National Transportation Policy."

I have worked in the private sector, I have worked in government. I recognize the need for a strategic plan and policy. In government, it is as important as it is in the private sector. It must look short-range and long-range.

It must bring everybody together. It must bring water, surface and air together.

We are going to develop in the Department of Transportation a National Transportation Policy working with the Congress.

One of the areas that we are going to be looking at is the area that you have identified. We will be looking at it on a short-range basis because it will come on my screen because of your resolution. I promise to look at that.

We will also look as to how that fits into our National Transportation Policy. We cannot let our infrastructure in this country decay and deteriorate without addressing it. It is time to address infrastructure. It is time to address it across the board.

I believe the sentiment exists throughout the country. We have to identify the problem. We have to sell the need. And, we have to fund our need.

That is what this administration and the Department of Transportation is going to be all about, and your situation will be part of that policy.

Senator ROCKEFELLER. Thank you very much, Mr. Skinner.

Thank you, MR. Chairman.

Mr. SKINNER. Thank you for the vote.

The CHAIRMAN. Thank you.

Senator Stevens.

Senator STEVENS. Thank you, Mr. Chairman.

We had a long visit in my office before this hearing. I want you to know, just to begin, that I don't think any one of us could handle a question as to what we did in March of 1977 the way you did. So I congratulate you.

Senator Rockefeller congratulated the Chairman and Ranking Member, but I congratulate you for the way you handled that—not only for how you handled it now, but how you handled it then.

As a former U.S. Attorney, I know how difficult that whole procedure is.

I have four questions, rather quick ones.

First, in the area of the Coast Guard, the Chairman has mentioned the Coast Guard and its lack of equipment and manpower.

Alaska has half the coastline of the United States. We are one-fifth the size of the United States. The Department of Transportation has overwhelming jurisdiction in my State, and the Coast Guard is primary, along with the aviation aspects.

We have, between the Soviet Zone, the 200 mile limit, and the U.S. 200 mile limit, 45,000 square miles of navigable waters, international waters, that can only be entered by going through one of the two zones.

In that 45,000 square miles live the fish pirates of the world. Probably the largest collection of fisheries in the world is in the North Pacific now.

The Coast Guard is having an extremely difficult time maintaining its two functions there. One, and predominant, is the search and rescue function. As the father of the captain of one of those boats out there, I am quite concerned about that.

Incidentally, the son of a former Coast Guard Commandant is the captain of a boat out there, too. These are enormous boats. They stay out throughout the year.

We have no search and rescue capability for the Coast Guard West of Kodiak, except surface vessels—2,000 miles out to Dutch Harbor; another 1000 miles out to Attu and Kiska. An area that would be as wide as the United States is out there, where there are Americans from Washington, from Oregon, from Hawaii, fishing up there in that area, that have no search and rescue capability.

Secondly, the surface vessels primarily are dedicated to law enforcement capability. And unless we do something to stop those fish pirates, we are going to lose what amounts to about 2 billion pounds of fish a year.

I don't want to ask you any particular questions. But I would urge you to make a commitment to visit that area, too. I admire you for visiting the Caribbean, with the problems down there of drug control. You can visit them in the winter time and us in the summer time, Sam.

But I would urge you to come up and look at the problems of that area in relationship to your new responsibilities. I hope you can do that.

Mr. SKINNER. You and I have discussed that. I think I have given you what I feel about the Coast Guard and the kind of job they are doing, and they have been doing that job quite well since 1790. We cannot ask them to do two jobs and not fund them correctly. Given the nature of my earlier visit to the Caribbean, maybe I should go to Alaska next month and the Caribbean in the summer.

I don't want to be perceived as a "boondoggler" my first month in office.

Senator STEVENS. Oh, no.

Mr. SKINNER. I do want to get to those issues. It's important that the Coast Guard—and I have heard it from a number of people—be properly supported. I hope, when we come up here as a unified team from the Department of Transportation, that I have the kind of support that I think I have on this Committee for funding for the Coast Guard.

It's not fair. They are doing a great job. It's a tough job, and they have to be treated properly.

They are not step-children in the Department of Transportation. They are not step-children in our national defense team, and I am not going to let them be step-children.

Senator STEVENS. I am pleased to hear that and I was pleased to read your response to the question about ice breakers. There is an ice breaker replacement in President Reagan's budget. It will be a subject you will have to address.

We are far behind in our capability to deal with the areas that are covered, even annualized. We live in an area of the perpetual ice cap that has to be dealt with, and that came up in connection with the problem of those whales off Alaska last fall. I do hope that we can hold that.

Senator Rockefeller mentioned the problem of the essential air service. That was a provision in the deregulation bill that pertained to the old CAB, aviation deregulation, that I put in there. I put it in there because we have a substantial number of communities in Alaska that have no other means of transportation—not just that they have to have it to be connected, but they have no other means of transportation.

At the time that was first started, there was a level of funding of about $100 million a year. It has come down, Sam. It has come down from $100 million to this $25 million that we have now, and that is, as we now know, $6.6 million deficient, even for this current year.

I would urge you not to let that go off your screen, as you say. That is probably, I think, one of the most significant programs that we have, and it assures a continuity of the international travel capability of all Americans.

We argue about the postal system and everything else. But I hope you will keep that on the screen.

The last question is this.

On the trust fund that the Chairman mentioned and that others have mentioned, I have also mentioned the Postal Service.

The Postal Service, incidentally, if it was off budget for the next three years would have a positive effect on the budget. If we took the Aviation Trust Fund off budget at the same time and transitioned it over a period of time, rather than all at once, we could actually have a balance and achieve what I think Congress wants to do, deal with both the aviation fund and use that money, and put the Postal Service back where it was.

I hope that you, in the Cabinet, will address the concept of not just your situation, but of finding a way to live with our goals under Gramm-Rudman-Hollings—I have to mention that because he is here.

But we can do it, if you do two at once, Sam.

I would like to chat with you about that.

I thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Bryan.

Senator BRYAN. Thank you very much, Mr. Chairman.

Mr. Skinner, I appreciated the opportunity to visit with you the other day to discuss some of the concerns which I have.

I would like to follow up on a point of inquiry raised by Senator Rockefeller, and that deals with the question of Essential Air Service.

It is not just a concern in West Virginia. It is not just a regional concern.

As you and I have discussed, it is a national concern.

Rural America is in real trouble in terms of diversifying its economy. Transportation is critical to that diversification effort. And, to the extent that we deprive these small communities, I have one in my own State, Ely, which is 340 miles from Reno, 250 miles from Las Vegas. We really cripple that community's opportunity to really try to diversify its economy and to tap into some tourism potential.

For example, in 1986, the Congress approved the Great Basin National Park, which is very near Ely. So I was particularly pleased to hear your response, and I look forward to working with you on that issue, as well as on several others.

Senator STEVENS. Senator, would you yield for just a moment?

Senator BRYAN. I will do so.

Senator STEVENS. Without charging this to his time, I forget to request that questions that Senator Kasten wished to submit for the record be submitted at this time.

The CHAIRMAN. They will be included.

Senator STEVENS. Thank you very much.

Thank you, Senator.

Senator BRYAN. You are quite welcome, Senator.

I would like now to turn for a moment to the Highway Trust Fund.

In our State, we have identified some $4 billion of legitimate highway requirements over the next ten years, and revenue sources of only $2 billion to satisfy that $4 billion commitment.

There has been considerable discussion, as you know, that perhaps one alternative or option available to Congress in terms of retiring or reducing the Federal deficit is an increase in the gas tax.

I am opposed to that for two reasons. One, I think, as a former governor, it preempts a State revenue source. Secondly, I think it is critical in terms of funding our highway requirements if there is, indeed, to be an increase in that revenue source, that it be dedicated to that purpose.

My question to you is this. If such a proposal is developed, what is your position with respect to that increase? I am interested in a philosophical response.

Mr. SKINNER. In the last several months, I have become a lip reader. I read lips quite well.

A gas tax is not a duck. It is a gas tax. I am opposed to a gas tax at this time. The President is opposed to a tax of that type.

I would, however, like to use this as just an opportunity to reaffirm my commitment to develop a National Transportation Policy so that we can look long-range at what the needs are, not only in West Virginia, but in Nevada, and in Louisiana, and, again, across the country. Once we have developed that policy and we can find the proper role for State and local governments, as well as the Federal Government, in this policy, then we can begin to really address those problems, Senator, not on a short-range basis, but on a long-range basis.

I think that is what we have to do.

In the meantime, I am opposed to a gas tax; the President is opposed to a gas tax; and we are clearly opposed to it for deficit reduction purposes.

I am, as you know, in honest disagreement with my good friend, Dan Rostenkowski. But he and I have agreed to disagree and still be friends.

Senator BRYAN. I am pleased to hear your answer.

Let me also ask you, with respect to the Highway Trust Fund, this question. Hardly a session of the Congress goes by that there is not an attempt to change the formula by which that money is distributed.

What is your position with respect to the present formula? Do you favor it? Do you favor modifications? If so, what changes do you support?

Mr. SKINNER. At this point, I am pledged to examine at the appropriate time the formula and the formula allocation.

I was not an active player in surface transportation to a large degree in the area of the Highway Trust Fund. So, therefore, I do not bring to that issue a level of expertise. I am committed to look at it. The reauthorization will be up in a couple of years. That probably will be addressed at that time, and the Department of Transportation and the administration will have a policy at that time.

But, Senator, so far, I have not had a chance to address it.

Senator BRYAN. When you do look at the formula, I would just ask you to keep two words in mind that are critically important to that formula—"lane miles.'

We happen to think that that is a very important part of that formula.

Let me shift focus for a moment, if I may, to the corporate average fuel economy standards. As you know, by law, that has been established at 27.5 miles per gallon. There is the authority to deviate from that standard, and your predecessor granted such a deviation to 26.5 miles per gallon.

My question to you, Mr. Skinner, is do you think such a deviation is helpful? Is that something that you are going to support, in light of our increased dependence on foreign oil and the concern that this Committee, as well as other Members of the Congress, share about the global warming effect, the greenhouse effect?

Mr. SKINNER. Well, I have not had an opportunity to discuss what the Department's policy is going to be. I think you are quite aware, probably, that the President is very committed to the environment. It appears to me that our national environmental policy will have to consider this issue, and that we will be working with the Environmental Protection Agency on that aspect of it, prior to developing any policy.

We obviously have to be concerned about fuel efficiency. We have become a little careless, I think, in our use of fuel. Those of us who remember the days of waiting in line have probably not forgotten this.

So those are also aspects that must be taken into consideration when we develop this policy.

I am pledged to look at it, look at it anew with the environmental concerns in mind. I would hope that the Bush Administration would have a policy in the not too distant future through the Department of Transportation to deal with that issue.

Senator BRYAN. Thank you very much, Mr. Skinner.

I see that my time is up.

Mr. SKINNER. Thank you, Governor.

The CHAIRMAN. Thank you.

Senator Burns.

Senator BURNS. Thank you very much, Mr. Chairman.

Yesterday, I kind of got started a little quickly. But I thank you for this time.

I am looking forward to working on this Committee.

I want to say a few things here to the prospective new Secretary.

I am impressed with the confidence that you are taking into this job. I am new up here, too, and I wish my confidence was growing as fast as yours, but it is not.

I like a person who sets goals. It seems to me, ever since our visit, that you have set some goals and you have the tools and the knowledge to attain them. I appreciate that.

I want also to say that we've talked about essential air service, and I will be supporting Mr. Rockefeller in what he is doing at 2:00 o'clock this afternoon.

But we understand there are budget restraints, too; that we are here to bring some fiscal soundness to this government; and there are only certain things that a government can do and there are certain things that we cannot do.

I would be interested in this. We live in a remote area. We are the fourth largest State. We will have to go back with Ted and the rest of them.

We come from a large State with relatively few people—146,000 square miles, with only 800,000 people, roughly. So that concerns us.

My concern is rural health and essential air service does play a part in that scheme of things.

But also I am aware of the budget.

To support essential air service, knowing that it is important to every State in this Union, would you look for ways to find the money in the present budget, or do you favor a supplemental appropriation?

Mr. SKINNER. Well, it is clear that there is a sentiment in the House and the Senate to solve the essential air service shortfall this year. I am committed to help the Senate and the House solve it.

I think, given the fact that Mr. Darman has not really had the opportunity, that he and I have not had an opportunity to sit down, I would like to at least defer that for a short period of time, until I can sit down with Mr. Darman.

I do believe the Congress is going to address that, and I am going to work as part of the team to address that.

I think we are going to find a solution to that. But, whether it is a reprogram or a supplemental, I am not in a position to talk about, Senator, until I meet with the Office of Management and Budget and get their thoughts on it.

I am a problem solver. It is a problem. You want it solved; I want it solved.

Senator BURNS. Another area that I was happy to learn Senator Packwood is concerned about, too, is the trucking industry. The trucking industry seems like it is being choked by paperwork.

I am wondering if you have set any goals or have made any commitment of trying to alleviate some of those problems. Not only is it choking the industry, but it is also a very costly item in the trucking industry. I was wondering if you have set any goals or plan to address that situation in the trucking industry—other than the safety factor. I understand safety and that we must have that.

Mr. SKINNER. Well, one of the advantages in assuming this job, if I am fortunate enough to be confirmed, is that I no longer will have to fill out the time sheets that lawyers fill out every day. So I am familiar with paperwork and sometimes there is a need for it. But sometimes we just create paperwork to create paperwork.

I do not think, in a deregulated environment, where independent truckers are trying to make a living, that the Federal Government should just mandate unnecessary, nonsafety-related paperwork, just so we can have a file in Washington.

I am going to do everything that I can to make sure that, on the safety issues, we have the proper programs and the proper regulations. But, just as in the Secretary's office, where we shouldn't generate paperwork to generate paperwork, I don't think we should generate it for the private sector.

So, where it is essential, we should have it. We should evaluate what we require. Where it is not essential, it is always good every few years to go through an evaluation process, and I pledge that we will do that. If we can relieve the load on truckers, on aviation, or on any other industry, we should do so.

Senator BURNS. In the interest of time, Mr. Chairman, that is all I have. We will go into session at about 12:00, and I would make room for some other folks who may have questions.

Thank you very much.

The CHAIRMAN. Thank you very much.

Senator McCain.

Senator MCCAIN. Thank you, Mr. Chairman.

Welcome, Mr. Skinner. We admire your enthusiasm and, indeed, your courage in taking on this very important task. I am sure the overwhelming majority of my colleagues support your nomination and look forward to the opportunity of working with you.

I would like to talk aviation with you.

First of all, I hope you won't fly around all the time in that FAA airplane and continue flying yourself, so that you'll be exposed to the rigors of flying, as those of us are exposed who have to fly back and forth to our respective States most weekends.

I think it is a given that aviation, since deregulation, has been overall successful in that more Americans are able to fly at a lower cost than they were at the onset of airline deregulation; and more Americans in the future will be able to fly at a lower price, as long as we continue to have competition in the airline industry.

What concerns me, Mr. Skinner, and I know concerns you also, are the threats to that competition. Those threats come from a variety of directions: the failure of any administration so far to use the Aviation Trust Fund to build additional airports because, as you and I know, airports are becoming saturated—saturated to the point where new airlines are unable to move into available markets in this country because there are no slots.

We had the Chairman of one airline come before us and recommend that all slots be thrown up for bid. He didn't mention that he got his for free.

I think that it is important to recognize that there has not been one new major airport built in this country since 1974, I believe, the Dallas-Fort Worth Airport. And the one in Denver, as we all know, is experiencing significant problems, even from the airlines who urge them to build.

The CRS system has become a monopoly. Two airlines, according to my information, have a national network share of 75 percent of the CRS industry. In fact, another chairman of an airline was quoted as saying if he had to give up his airline or the CRS system, he'd give up his airline.

There has been study after study mandated as to what we can do about this CRS system and how we can make it fair and equitable to all passengers so that they can take advantage of the lowest airline fares, rather than have dictated to them being placed on the airline that happens to own the CRS system.

What I am saying, Mr. Skinner, and what I am seeking your views on is this. There is a myriad of issues here that I think must be addressed in order for us to prevent de facto reregulation of the airline industry.

I guess my first question to you is could this job be carried out better if the FAA were an independent agency? As you know, Senator Ford and I have been involved in legislation which calls for removing the FAA from under the Department of Transportation and made an independent agency.

Mr. SKINNER. Thank you, Senator.

When it first was announced that I was going to be nominated, one of the first things that was brought to my attention was the fact that there was going to be a Ford in my future, and that is Senator Ford with S. 1600.

I have not had an opportunity to discuss in depth with the FAA or with the administration, or with the industry, the pros and cons of S. 1600 and the reorganization plan that the Department of Transportation, under Mr. Burnley, recently provided.

I do believe the important thing in aviation, generally, and the relationship between the Department of Transportation and the Federal Aviation Administration, is rapport between the Secretary and the Administrator.

I love aviation. I think I told you that. As a flyer yourself, you understand what a love for aviation is. I love its history. I love what it does for this country and I love the potential that it has for the future throughout the world.

I am going to have a good relationship with the Federal Aviation Administration. It is an important part of my job. It is a job I am interested in. I believe I am the first active pilot ever to serve as Secretary of Transportation, although I think at least one had some military experience. And I fly in the environment on a regular basis.

You have identified a very serious problem, and that is the fact that, if we are going to have an effective, deregulated aviation system in this country, we must have capacity.

The National Transportation Policy that we will develop, working with industry, government, and the Congress, will address that very important issue. It will identify what we need now, what we need ten years from now, what we need 20 years from now and 50 years from now, and then we will begin to put it into place.

So I assure you that I will look at all the alternatives. I will do what is best for aviation and best for this Nation. If that is an independent administration, then that is what I will push for.

But, in the meantime, while we go through that, I have to have, and will have, a very good relationship with the FAA, and I have begun to build that already.

Senator McCain. Thank you.

In a very short time, I hope you will also look at the CRS system, as well as the slots, and get back to us as to how we can make sure that we maintain this deregulatory and competitive mode that aviation will only move forward by maintaining.

Finally, Mr. Skinner, I notice the Department, in conjunction with the United Kingdom, yesterday called for an immediate meeting of the Ministers of Transport of the member nations of the International Civil Aviation Organization to address the issue of aviation terrorism.

If confirmed, do you support this initiative? I hope that you recognize that our airport security across this country today is sadly lacking. We find evidence of that day after day, by any enterprising press person who wants to dress up like a worker and get through the barriers, the security barriers, and people who want to carry something in their luggage as a test of the systems.

I hope you will address those issues and get back to the Committee as to how we anticipate taking the added precautions necessary to prevent acts of terror, particularly in light of the advanced technology that is now available to terrorists in the way of explosives that can be concealed.

Mr. SKINNER. I am well aware of the conference. I have avoided being presumptuous by making decisions after I am confirmed, if I am fortunate enough to be confirmed, by the Senate. But they have kept my advised of that. I assure you that I support it fully.

I spoke last night to FAA Administrator McArtor, and asked him, subject obviously to my confirmation, to begin the process to prepare our position regarding that conference, so that he and I, working with the Department of State, can get our program together very shortly.

We are going to be very active participants in the ICAO conference in early February.

Senator MCCAIN. Thank you.

Thank you, MR. Chairman.

The CHAIRMAN. Thank you.

Senator Inouye.

Senator INOUYE. Thank you very much, Mr. Chairman.

Mr. Skinner, I have been on this Committee now for about 20 years, and during that period, I have had the opportunity to participate in the confirmation process of dozens upon dozens of presidential nominees. Your process, I am certain, has been the lengthiest. You have been more scrutinized and investigated than any other person that I can think of, especially for this position.

Many have commended you. I thank you for taking this job because I doubt if too many Members of Congress would be willing to undergo this scrutiny and investigation to hold that job that you will have.

So I am glad that, notwithstanding the torture that we impose upon you, we are still able to find Americans who are willing to serve this country. I thank you for so doing.

Mr. SKINNER. Thank you very much, Senator.

Senator INOUYE. I have many questions that I would like to submit, Mr. Chairman, and I would touch upon two at this point.

My Chairman spoke of the unfortunate budget crunch in which the Coast Guard finds itself. Senator Stevens spoke of the urgency, and I think that these two statements apply to the situation in Hawaii.

We were all set to receive a new cutter in the Pacific. However, as a result of the election, and for the security needs of the President of the United States, this cutter, which was to be sent to the Pacific, will now be based along Kennebunkport.

I am not minimizing the importance of the security there. But we would still like to have a cutter in the Pacific Ocean.

Mr. SKINNER. Would you share one with Kennebunkport?

Senator FORD. We don't have the money for the canal.

Senator INOUYE. I am just wondering if we can't prevail upon the Defense Department to send one of its ships out there. I think we have more ships available in the Defense Department than in the Coast Guard. That is just a thought.

The other matter is mandatory drug testing.

In your response, you said, "I strongly support mandatory random drug testing of employees who hold safety-related positions in this industry." What do you mean by "safety related positions?"

Mr. SKINNER. Well, clearly, the policy that was developed by Secretary Burnley was developed with a lot of analyses and a lot of forethought that I have not yet had a chance to study. But it is clear that pilots in the cockpit are safety-related. A strong argument can be made that flight attendants and machinists are also safety-related.

There is also a strong argument that can be made that truck drivers driving on the highway are in safety-related jobs.

I suppose the list goes on and on.

I don't think we can have, as I indicated earlier, people performing safety-related jobs who are using drugs, or who are alcoholics or who are in alcoholic conditions. We have to address that.

It has to be a strong policy, but a fair policy.

The Supreme Court, as you know, will rule shortly on that issue. I think once the direction comes from the Supreme Court on that issue, we will be in a position to reevaluate and validate the policy that the Department of Transportation currently has in place. And if it is appropriate to modify it because of the Supreme Court decision, we will do so.

There may be a number of other jobs that I have not thought about, but those come to mind. Also, railroad engineers, clearly, are in safety-related jobs. I am sure there are a number of others that I have not thought of.

Senator INOUYE. Do you have any comment to make on the recent suggestion by the American Trucking Association that the present 65 miles per hour speed limit be reduced back to 55 miles per hour?

Mr. SKINNER. No, sir. I have not had a chance to review that proposal.

I recognize there are a lot of strong arguments that have been made on both sides of that issue. If it is appropriate for the Secretary of Transportation to revisit that issue in the near future, I will do so. But I am not on record, nor have I ever had the opportunity to make a decision on that.

So I am really void of sufficient information to render an opinion at this time.

Senator INOUYE. If one watches the evening news carefully, that person would get the impression that the most dangerous way to travel would be by air.

And yet, statistics indicate that in a period of about ten days, more Americans are killed on the highways from drug related or alcohol related causes than one would find in one year of air travel.

I would hope that your Department would begin to emphasize and publicize the positive nature of transportation in this land. In fact, in all of the major accidents that we have had in the last six months, I don't recall any of them being related to any use of alcohol or drugs.

We are now speaking of mandatory drug testing for these industries, and yet not being too concerned about drugs and alcohol on the highways. I would hope that we could shift around some of our priorities in this area.

With that, sir, I would like to congratulate you and thank you for offering your services to the people of the United States.

Mr. SKINNER. Thank you, Senator, for your kind comments. I will try to live up to what you have said.

The CHAIRMAN. Thank you.

Senator Breaux.

Senator BREAUX. Thank you, Mr. Chairman.

Thank you, MR. Skinner. I would also join with Senator Inouye in thanking you for your willingness to serve. It is not something that you do because of the salary or the workload. It's a real sacrifice, and we are pleased that you have been willing to accept this post. You bring a great deal of credentials to this position and we are proud to have you here.

Mr. SKINNER. Thank you.

Senator BREAUX. One of the smaller departments that you will have supervisory jurisdiction over, and one that will be sure to give you some of the largest headaches, is the maritime industry.

The President's Commission on Merchant marine and Defense, and also industry analysts and witnesses before every Committee hearing that we have ever had, have warned that unless we reverse the American merchant marine fleet's decline, which has been very dramatic in recent years, our country will be unable to meet our very critical sealift demands and our national defense requirements.

It will be a big task to reverse this drift. We have problems with construction of our ships. We have problems with the shipyards who are doing, basically, only navy work and military work.

My question to you is this. What are your plans to try to provide the leadership to turn this industry around?

Mr. SKINNER. I think, Senator, you have identified a problem that many have brought to my attention—the importance of our maritime industry from a defense viewpoint as well as a commercial viewpoint.

Our National Transportation Policy, which we are going to develop, is going to identify and look at the real needs in the maritime industry.

I think we need to get from the Joint Chiefs of Staff a defense assessment of the importance of the maritime industry in this country.

Senator BREAUX. I think we have that. I mean, I hope we don't start off with another commission to study the problem. We've got them since I have been in Congress for 17 or 18 years.

Mr. SKINNER. I think that it is important, Senator—and I don't mean to say that we can't take advantage of the studies that have been done, because I don't believe in reinventing the wheel, just as you and I have talked about—I do think it is important that we coordinate them because if, in fact, we are going to provide sufficient additional funding for maritime, we have to explain the need. We have to explain the importance. Then we have to make the case with the American people, the OMB and the Congress.

All of this requires a solid base of information, put together in a cohesive, reasonably attainable program, and then we have to go out and sell it.

I am pledged to put that together. Hopefully, we won't go out and do another study and reinvent the wheel. But we will take all the information that is available, supplement it with additional information, and then we'll go out and do our jobs, which is to sell to the American people and the Congress and the Office of Management and Budget and the President the need for increased funding and a viable maritime industry. I am pledged to do that.

Senator BREAUX. I am pleased to hear that.

One of the recommendations and one of the statements by the President during the campaign was that he would establish a single, appropriate Executive Branch liaison for the maritime industry. I take it that that is something you would agree with.

Mr. SKINNER. Yes, sir.

Senator BREAUX. Are you planning to carry out that type of program?

Mr. SKINNER. Yes, sir.

We are in the process of evaluating all of the commitments within the transportation arena that have been made during the campaign, and then begin to put programs into place to take those from a plan or a proposal to a completed program. That is one of the very significant commitments the President has made.

Senator BREAUX. One of the suggestions in dealing with the Merchant Marine is this. Some of the figures we have seen have shown that to build a ship overseas would cost somewhere around $100 million less than building it over here in the United States.

Some have suggested that we ought to allow the foreign construction to occur and continue to subsidize the operation of those ships, even though they are foreign built.

Do you have any general thoughts about those recommendations or how we maintain a strong shipyard base and at the same time have American ships built?

Mr. SKINNER. No.

It is a somewhat complex issue. There is a lot of work that has been done. I pointed out to someone that in becoming a nominee for this job, one of the things that happens is you get hit with information like a flood out of a firehose. There is a lot of information that has been brought to my attention.

I have not had a chance to review that in depth. But I am hopeful that we can draw the balance, that we can keep a viable ship-building capacity in this country, so that we can compete in the world market.

That is one of the things that we are going to want to look at very quickly.

Senator BREAUX. It is going to be one of your biggest challenges.

I really hope this can be addressed—and I think the last Secretary was deficient in this, in that he didn't give it enough of his attention, time, or effort. There were a lot of other things that he had to worry about. But this is a problem that has been around for so long and through so many administrations that I would hope that you, as Secretary, make sure that we have the very best people in the positions that are going to be dealing with this, and that you give it your per-

sonal attention, and that we will have an opportunity to call upon you when we have suggestions and for you to meet with us in a cooperative spirit that I have heard you outline this morning.

I thank you for that.

Mr. SKINNER. Thank you very much, Senator Breaux.

The CHAIRMAN. Thank you.

Senator Ford.

Senator FORD. Thank you, Mr. Chairman.

Mr. Skinner, everybody has been bragging on you here today, and I think that is proper. There is a statement down in West Kentucky that would fit you. They'd say, "He's a pretty good guy."

Mr. SKINNER. Thank you, Senator.

Senator FORD. I think that is about as big a compliment, coming from a Kentuckian.

You know, being bilingual, Mr. Skinner, as I am—with my poor English and Southern accent. Let me tell you that Senator McCain and I will be very much interested in the aviation field. He is enthusiastic, I am, and you are, too.

I want you to look at the Albertine Commission report, which was put together toward the end of the last administration, and at their recommendations. S. 1600 tracked many of those recommendations.

We did not recommend a safety czar, but we did a deputy administrator.

I want to ask you a question. I was told we had about three different reorganizations in the year 1988, I think, or the fall of 1987, in the Transportation Department. The string was drawn a little tighter each time, and no one had an opportunity to say very much, other than the Secretary of Transportation in the last year.

I was told and kept off base that we are just reorganizing the FAA so we can be prepared for the independence of that agency.

I took that with a grain of salt, and that made it go down a lot better.

But under one of the reorganizations of Secretary Burnley, he wanted an Under Secretary of Transportation for Aviation. He set the structure for that individual, even for Administrator McArtor, I think, that he had to be in that office, adjacent to his, so many hours every day or so many hours every week or so many days per week so he could see him and be there and he would not get too far out of hand.

What is your procedure now? What is your feeling about the Administrator of FAA and an Under Secretary for Aviation, et cetera?

Mr. SKINNER. You and I have discussed this at some length in our meeting. Since we have met, I have given it a little more thought.

As I indicated to you at that time, I think the important role right now in the current organization is for the Secretary of Transportation and the FAA Administrator and his key people to have an understanding of what the Secretary's role is, what the Administrator's role is, and to have a good working relationship.

I don't think having an office next to somebody insures a good working relationship. What insures a good working relationship is trust, working together early, identifying problems early, supporting the administra-

tion when it is appropriate to do so, criticizing them privately and making changes when that is appropriate, but having a set of guidelines under which the Secretary and the Administrator work.

If the Administrator is the best person to make a statement, he or she should make it. If it is within the Secretary's prerogative or the Secretary is the best person to make that, the Secretary should make it.

It very well may be on a technical matter that there may be someone below the Administrator at the FAA who is the proper person to make that statement.

So I don't think we should get hung up on protocol. We should look at the mission. That is to make our system in America the best aviation system in the world, and that means you work as a team.

I am a team player. The Administrator is going to be a team player on my team. So is everybody else at the Administration.

So I think the Secretary's office and the FAA Administrator, in the short-range, will work together. On a long-range basis, we are going to look at all of the alternatives. I have not formed any opinion. And, frankly, I think you and I and Senator McCain and the Members in the House have to sit down and discuss that in a lot more depth before I am ready to make any kind of decision.

Senator FORD. I am of the opinion, and it makes me a little bit stronger advocate of this independent FAA, because of your coming on board. I say that from the knowledge I have gleaned from our conversations and your background and the statements that you have made.

We probably would structure FAA better now than ever in my knowledge, and it may be the proper time that, rather than have an FAA taken off on your watch from the Department of Transportation, a real FAA would be structured and the aviation community of this country would be in a much better position.

So, under those circumstances, I would just say publicly that your presence makes me feel more confident that we should go forward under an independent FAA. But we will get to that an we will have plenty of time to do that.

Are you friendly with Mr. Darman?

That is the gate you have to go through. They call it the "golden gate" sometimes. We look at it as the "green gate," or as "what's behind the green door."

Mr. SKINNER. He and I are getting to be better friends every day.

He sits next to me at the Cabinet, and I am looking forward to sitting down with him. He is a very articulate, very smart, but I think reasonable, person. I am hopeful that I can make a good case before the Office of Management and Budget, and that if I make a good case, that I am going to be able to sell that case.

My job, to some degree, is that of salesman. I have to put the program together. It has to be based in fact. It has to make sense and it has to have Congressional support. And then I have to go and sell it.

I have been somewhat successful over the years in selling, whether it be cases to a jury or computers to a customer, because I have had the facts behind me, and I hope to have the facts and sell them to OMB.

Senator FORD. Mr. Skinner, my time runs pretty fast here.

The Congress approved changes in the economic regulations of motor carriers operating in surface transportation, which, in many, deregulated interstate surface transportation.

There are those who presently seek further motor carrier economic deregulation, including the Federal preemption of State economic regulations.

Of course, my primary interest on this Committee is aviation. But I became involved in this issue when a proposals appeared late at night on the Senate floor calling for intrastate surface deregulation for certified air cargo carriers.

Now this proposal would have allowed trucks owned by an air carrier to operate in intrastate surface transportation without regulation, while other carriers already operating under State regulation would remain under the State regulatory scheme.

Would you comment first on the intrastate surface preemption for those trucks owned by the air carrier, and, second, on your views on the Federal preemption of intrastate regulations?

Mr. SKINNER. That is an issue I have not had a chance to address in depth.

I believe we ought to have a fair, competitive environment, under a deregulated environment. We should do everything we can to make sure that the Federal Government and the local government work together on what each's respective role is going to be, and then, when that program is implemented, that it is fair to everyone.

I don't think we should give an unfair competitive advantage to anyone. But how that flows in this particular situation, Senator Ford, I won't know until I have had a chance to get into it.

I also thank you, as you end your comments, for your statement. I hope I am a pretty good guy and I look forward to working with you, as you know, on the important problems of aviation.

Senator FORD. I have other questions about airport charges and who is responsible for running the airport and that sort of thing, particularly the Alamo Rent-a-Car case. I will be chatting with you about that and will send questions to you.

Mr. SKINNER. Let me say this.

The Alamo case will probably have to go to a deputy. I represented Alamo for a short period of time, so I will be recusing myself from that matter.

So we will have someone you can talk to, but it won't be me.

Senator FORD. Would you send his name up quickly?

Mr. SKINNER. Yes, sir.

The CHAIRMAN. Thank you.

Senator Robb.

Senator ROBB. Thank you, Mr. Chairman.

I, too, welcome you, Mr. Secretary-Designate. I would observe at the outset that, in addition to your obvious skills in the professional, technical, and political arena, perhaps your sense of humor may serve you well and longest both in this town and for some of the problems that you will have to deal with.

One of those that will probably require that sense of humor has to do with the question of surface transportation in and around the area where we sit today.

I have a bit of a parochial interest, but it happens to reflect the interest, I suspect, of most of the folks who are at least in this room, though not seated at this particular table with the Committee.

As you know, the rush hour is something of a misnomer in this area. It is for many something akin to gridlock. There are many that are concerned about the reauthorization of the Highway Bill in 1991.

I was wondering if you could give us any thoughts on your views on the future of this particular Federal Highway Program, and, more specifically, a comment, if you could, on the question of the completion of the technical requirements of the original act, as it is currently being applied.

There is a certain sense of frustration that we have in Virginia, and I am sure it is shared by other States, that some projects are, for technical reasons, designated for completion, whereas many others—I-66 and the Beltway right here—have been completed but clearly have an overload. The HOV question is interpreted differently under different circumstances.

Do you have any general comments on the future of that particular bill or authorization?

Mr. SKINNER. Well, I think, as to the technical aspects, I have not had a chance to address that.

As I have indicated, I believe, to several of the Senators, I think the technical aspects of these bills are important, but our real mission is to get the job done. We should not let the technical aspects of government, if we can avoid it, get in the way of getting the job done.

So I would hope that we would examine that and make sure that we are doing it.

On gridlock, I come from a mass transit background. I am familiar with gridlock. We may even have invented it in Chicago. But we certainly have a patent on it. It is a difficult problem.

Gridlock means, in many respects, not only alternative methods of transportation, but we have to find ways to get people out of the automobile when they don't want to leave the automobile. It is one of the most challenging problems not only in mass transit, but in transportation in general.

I think we are going to try to be as innovative and as creative as possible, with incentives and other things, to solve that, while, at the same time, as part of our National Transportation Policy, really identifying the commuter needs, not only of Washington, D.C. but of New York, Chicago, California, and every other major city in the country, as well as of the rural areas. And when we put that together, maybe we at least can know what our problems are going to be, and then we can start to deal with them.

There is no short-term solution. That is something we are going to have to address for an extended period of time.

Senator ROBB. Mr. Secretary-Designate, in our private conversation we discussed some of this. I am pleased with that emphasis. I know that your prior background in mass transportation gives many of us a sense of hope that this will receive added priority in some of the things that you do.

I would observe, as I am sure others have, that your desire to put forth a National Transportation Policy that is coherent and that reflects some judgment about the kinds of priorities that we ought to establish is important.

To get you to the airports that several of my colleagues have talked about, however, you do have an opportunity to use the mass transportation system here in at least one instance. Do you have any comments?

As you know, the American Public Transit Association has recognized the metro system in this area as the number one transit system in North America. Do you have any thoughts on the completion of that project?

I realize that this becomes more parochial than global in terms of some of the things you are trying to do. But it is of immense concern to just about everybody who comes back and forth here.

Do you have any thoughts on the commitment to the 103 miles or more?

Mr. SKINNER. First of all, let me say that I am familiar with this system and it is a great system. But I think the best transit system in the country is in Chicago, the Regional Transportation Authority.

But you certainly have a good system in Washington in WMATA. It is a system that is expensive. New starts are expensive to build, as you know, Senator. There is a limited amount of new start money available. It has to be shared with our Nation, and how we are going to balance the commitment, for instance, to new starts in Los Angeles, the work that needs to be done in infrastructure rebuilding in New York and Chicago, is going to be a big challenge.

I will try to be fair. That is all I can promise you. I will be fair. I will listen and I will be fair.

I hope that if you may not disagree totally with the result, you will at least know that I exercised my fairest judgment in making that decision, and I don't know particularly how that affects WMATA right now, but I look forward to using it as soon as I can get that word "Designate" off my name.

Senator ROBB. Mr. Secretary-Designate, we would certainly agree that your commitment of fairness is appreciated. We may have a different definition of it when it comes to specifics at some point along the way.

Mr. SKINNER. I'm sure we will, Senator.

Senator ROBB. One final question that has not been addressed here, though it was addressed in some of your written questions, concerns hazardous waste and materials transportation.

In Virginia, we have done quite a bit to prepare for emergencies and what have you, and I think the responses to the accidents on the Beltway recently, even though they tied up the whole system, at least the hazardous waste materials portions of it was encouraging.

There is concern at my State level and in some others that there is going to be—Mr. Chairman, I am new here. What does that buzzer mean?

The CHAIRMAN. Oh, you will hear that in your sleep after a while.

Just keep on talking.

Senator ROBB. I just wanted to make sure there wasn't any physical ejection seat here. I would observe, Mr. Chairman, that the light was still yellow when I began this last question.

The CHAIRMAN. Just listen for five bells.

Chuck, you are doing fine.

Senator ROBB. All right.

Senator DANFORTH. It means absolutely nothing is happening.

Mr. SKINNER. Senator, I don't know what that does to your and my dialogue here.

Senator ROBB. Well, at least we have livened things up.

The question on hazardous waste materials is this. Is the Department of Transportation going to be sensitive to concerns of State, not to give them a veto power over site selection and other Federal training requirements and what have you, but at least to route designations and things of this nature, where there is clearly a State and a local interest? I understand that could clearly be taken to extremes, but I am speaking at least about the kind of consultation that will make the States and the localities know that their concerns have been addressed?

Mr. SKINNER. Well, it appears to me that we must have a known policy. I mean, we must come to closure on a policy that makes sense, that defines the proper role between State and local governments and the Federal Government.

It is an important issue. We have to regulate to some degree. We just cannot have a haphazard system out there. It has to be a known system. I would assume that the routes and a lot of things have to be known because a lot of the concerns are because of the unknown aspects of the transportation. We have to get that into a known situation.

Yet, we cannot overly burden State and local governments with responsibilities unless we are going to properly make sure they have the funds necessary to regulate them.

We will be looking at it very quickly.

Senator ROBB. Thank you, Mr. Secretary-Designate.

My time has expired, Mr. Chairman. I thank you.

The CHAIRMAN. Thank you.

Senator Pressler had to step out and get a call, and so did Senator Kerry. All I have now is Pressler, Exon, Kerry, Gorton, Lott and Danforth.

Senator Pressler.

Senator PRESSLER. Mr. Secretary, I thank you very much for being here. I think we are lucky to have you coming into government service.

I do have some questions. I was glad to meet with you recently and talk to you about some of the essential air service problems, which have been covered here to some extent.

I am an original co-sponsor of Senator Rockefeller's legislation, which is going to be introduced this afternoon. I will be joining him on the Senate floor because it is a subject that I have worked on for a long time.

In my State of South Dakota, we have very much a need for that essential air service, especially in our State capital. It is the only State capital in the Nation probably that does not have good air service. We depend on essential air service.

I would like to ask you what will be your personal recommendation, when confirmed, to OMB Director-Designate Darman about the essential air service? Will you recommend a supplemental appropriation or a reprogramming?

Mr. SKINNER. Well, I am certainly going to recommend that we solve it. I am certainly going to look to the leadership of the House and the Senate, who are going to be passing legislation, and I hope to advise them on it.

I have asked our budget people to examine various sources of revenue for a reprogramming. I really have not had a chance to sit down, frankly, Senator, and look at the alternatives.

I am committed to solving it. I don't quite know how. Whether it is going to be a supplemental or a reprogram, I want to solve this problem, and I want to advocate a solution, with the Congress, to OMB. We cannot let this service decline.

It was not the intention of Congress to allow that. It is not going to happen, and we ought to make sure that we do that consistent with what funds are available.

Senator PRESSLER. Thank you.

That is music to my ears.

Let me tell you about another situation that is occurring in the hub airports around the country that you may not be aware of, but that I am because I fly in and out of South Dakota and other points.

The hub airports are easy to fly, from one hub airport to another. You can go from Chicago to Washington, or from Chicago to St. Louis very easily. However, there are problems springing up going from the hub airport to a smaller area.

For example, recently I was flying through Denver. The United Express was not listed in some books, so Air West could not check my bags through. I had to get my bags out and buy a new ticket in Denver, and check them through.

Many of my constituents have similar problems.

Also, another problem. A businessman in our State recently was coming back through Chicago on a flight to South Dakota. There was a mechanical problem or something and he had to get another flight. But those flights were filled. He had to wait almost two days.

People are almost captive, prisoners, in some of those hub airports. If there is a weather problem, for example, a snowstorm or something, the flights are the next day. There are not additional flights added. They have to wait until there is an empty seat, which may be two days later.

Increasingly that is happening because the carriers want to have full flights from the hubs to wherever they are going. The passengers are captive travellers. They have no other options. They are in the airport.

If you are in the St. Louis airport, trying to go to Iowa or South Dakota, you have only one or two carriers to deal with—probably one—and you are captured there if they decide to collapse flights together.

Usually, the equipment flown from the hub airports to the smaller places is secondary or older equipment.

It is really becoming a problem. Whether it is upstate New York or South Dakota or wherever else it is, I think the airlines have gone a step too far in making profits, very huge profits in some cases, and insisting on full airplanes without any backup service.

It is really imprisoning people in hub airports.

Are you aware of that?

Mr. SKINNER. Yes, I am aware of the situation. We talked about it briefly in our earlier conversation.

Capacity within the deregulated environment in our aviation infrastructure is lacking. We don't have enough gates. We don't have enough runways. We don't have enough airports.

The system, in my opinion, the FAA, is doing a pretty good job, given the demand that we have placed on it so quickly. They need more resources to complete their part of the capacity problem. But we need more. If we are going to have a deregulated environment, we need more capacity, and we are going to have to have, as part of our National Transportation Policy, a program to build capacity.

In the meantime, we have to look at ways that we can insure competition can thrive, until we get to that full capacity system. That is one of the things that we are going to be looking at very shortly.

There are a number of alternatives that have been suggested. But until you can really get into the job and discuss them, we can't see how many of them are really viable.

Senator PRESSLER. It costs more to fly across South Dakota than it does to fly across the United States. It costs more to buy a ticket from Aberdeen, South Dakota, to Rapid City, South Dakota, than it does in some instances to fly across the entire United States.

There are some captive travellers who have to go to a funeral or who have a business appointment, something of that sort.

What will you, as Secretary, do for that person who is paying more to fly across South Dakota than someone else is paying to fly across the United States?

Mr. SKINNER. Well, of course, one of the problems that we have in dealing in a deregulated environment is that when we don't have sufficient equipment and capacity within the system, the airlines' expansion is limited.

So I would hope that we could make facilities available, make capacity available, that will allow them to serve more areas.

One of the problems, as you know, Senator, is that if you have a limited number of gates at a particular airport and the choice is to fly from Chicago to Los Angeles versus Chicago to Des Moines, Iowa, that gate and airplane may be used to go to Los Angeles because of the heavy load. If we had more gates, more capacity in the system, then the airline can make decisions: not only can I go to Los Angeles, but I also have an airplane, a gate, and a landing slot, and I can go to Des Moines or into your State.

So I think capacity is a big part of that solution.

Senator PRESSLER. I want to get in one more question here and I will have some more questions for the record.

The Department of Transportation has stated that the local rail service assistance program has outlived its usefulness despite the large number of rail line rehabilitation projects that have been identified.

Do you feel there is a need for continuing the local rail service assistance program?

Mr. SKINNER. Well, the previous administration has taken the position that there isn't. I'll take a look at it.

I don't know. If it is appropriate to reevaluate it, I will reevaluate it. At this point, frankly, I have no opinion, other than that we do have an existing policy and until that is changed, I should enforce it.

Senator PRESSLER. Mr. Chairman, I ask unanimous consent to submit several more questions for the record.

The CHAIRMAN. Without objection, it is so ordered.

In fact, the record will stay open until tomorrow at 12:00 noon for all Senators, so that they can include their questions. –

Mr. Skinner, our Chairman of the Surface Transportation Subcommittee, Senator Exon, had to be earlier this morning at the Tower nomination, as a Member of the Armed Services Committee. Otherwise, he would have been first recognized.

Senator Exon.

Senator EXON. Mr. Chairman, thank you very much.

Mr. Skinner, I appreciate the fact that you dropped into my office. We covered many of the subjects that I wanted to ask you about and get some of that on record.

As the author of the Essential Air Service legislation, I am very pleased at the attitude that you expressed here and I thank you for your openness. The Department, because we have asked that it do so, has agreed to hold up any immediate action in cutting of essential air service. It is critically important to many sections of the country, including 12 cities in Nebraska.

We appreciate your openness and we like the attitude that you have expressed.

I would like to get into several other things.

First, with regard to the Interstate Commerce Commission, we discussed this and you know about it.

My Subcommittee was instrumental in holding up appointments to the ICC by the Reagan administration because we felt that they were not particularly responsive to the wishes and will of Congress, as outlined in the Staggers Rail Act.

I hope that we can work together with you.

It is not our intention to stand in the way of people who are open-minded. But I think we have an obligation to carry out what was intended by the Congress when it passed the Staggers Rail Act, and especially with regard to captive shippers and access.

We are having a great deal of trouble with the present makeup of the ICC and I hope we can work together to solve that problem without locking heads again.

Mr. SKINNER. Senator, you and I did discuss this morning—you were kind enough to see me—and we did discuss that problem this morning, before you went to the Armed Services Committee hearing.

Staggers is a law and we ought to enforce Staggers. The Interstate Commerce Commission is mandated by law to perform certain functions and they should perform those functions. They should do it as quickly as they can.

Rate cases should not sit around forever.

If we want to change the law and deregulate and take things away from the Commission, then the Congress ought to do that. But we should not get around Congress by delaying things because we don't agree with them.

That is not my style. I will do everything I can to carry out a law. As you know, the ICC is an independent agency. But I think if we are going to operate in a deregulated environment, we have to make sure that those portions that continue to be regulated are, in fact, regulated.

I am going to do everything I can, as I told you this morning, to make sure that happens, and that includes having what input it is appropriate for me to have to the President on the appointments to the ICC.

Senator EXON. Thank you, Mr. Skinner.

I think with that attitude, we can keep away from extensive legislation. There has been one very close vote in the Committee on this. I think the majority has held that it is not necessary to pass legislation if we can get the right personnel on the ICC to take care of what was intended in the Staggers Act.

So I am delighted that we will be working with you on that.

Since you have had some experience in the airline industry as well, what is your position with regard to the monopoly situation that we obviously have in some hub airports today with regard to slots? In other words, there are airlines that just can't get in to some of these hub airports today, and there is no way that they are going to be able to provide a service which is different from one hub to another, but to some extent I think limits competition.

Mr. SKINNER. Let me see if I can address that. I am sure there is a representative from every airline in the country behind me, waiting to hear what I am going to say on this issue.

Competition, in a deregulated environment—let's put it another way. A deregulated environment works when we have competition and when we have capacity.

It was not the intention of deregulation legislation to give anybody a monopoly. So, therefore, we have to insure that we have competition within the system, now and in the future, when we expand our capacity.

We have to balance that very closely. I think we have seen a growth in aviation and a growth in the hub concept, and it is probably time to review the impact of that from an economic viewpoint, on a short-range as well as a long-range basis.

I intend to do that.

My experience on airlines was in flying to and from Washington for the last several months, not only ruining Senator Hollings' Christmas, but my Christmas and New Year's, though, hopefully, not my Valentine's Day. But I have been on the airlines a great deal.

I think that the hub concept has some real advantages in some of the services to other communities. But we cannot give a monopoly to anybody in the system. We have to find ways to instill the spirit of competitiveness in the system, while still being fair to those that have provided service for many years. That requires a lot more work and I am going to look at it.

Senator EXON. Thank you.

Mr. Skinner, tell me about your view on Amtrak. Are we going to have a continuation of the ongoing battle annually that we always win here with this administration?

I think we will win again. We would hope that we could come to some kind of agreement with you so that we wouldn't have to go through that.

How do you feel about Amtrak and the necessity for a national passenger rail transportation system?

Mr. SKINNER. Well, clearly, Amtrak plays a significant role in the movement of passengers, especially in the Northeast Corridor.

The Reagan administration believes that it should be self-sufficient. I'm not sure what the Bush administration position is going to be, but I would not be shocked if the budget takes the same position that the previous administration has taken.

The DOT recommendation was for some funding. I think the sooner we get Amtrak on a self-sufficient basis, the better off we are because then those funds will be available for the other situations that we've talked about here today, whether it be FAA, whether it be Coast Guard, whether it be Maritime.

You know, $600 million is a lot of money to these organizations that are within the Department of Transportation umbrella.

On the other hand, Congress has clearly indicated they don't want to deemphasize Amtrak—clearly not to zero. And, while they have cut the funding, it is still at a substantial amount.

I think we will work together in reaching a solution on this. But, frankly, this may be an area that the administration and the Congress, including me, are going to be at loggerheads on, and we will just have to work our way through it.

Senator EXON. My time is up.

I have several other questions, Mr. Chairman, that I will submit for the record, including a very important one that we talked about this morning, regarding the 4-R Act and whether or not we should be dictating to the States from the Federal level how taxes should be assessed at the State level.

Mr. SKINNER. Yes, sir. We agreed that you were going to provide information on that and then we will get into it.

Senator EXON. Thank you.

I enthusiastically support your nomination.

Mr. SKINNER. Thank you very much for your support and your time this morning.

The CHAIRMAN. Senator Kerry.

Senator KERRY. Thank you very much, Mr. Chairman.

Mr. Skinner, thank you for taking the time to visit. I enjoyed the opportunity.

You and I discussed at that time the subject of abandonments. I would just like to ask you here on the record, if I can, some questions. There are some 2,000 to 5,000 miles of rail line that are being abandoned each year in the country and many different views as to how those lines ought to be utilized after that fact.

I think the Interior Department suggested at least one-third of these rights of way are suitable for alternative public uses, and so forth.

The problem obviously is that a tiny percentage are actually being preserved or put into some use that might permit future rail use. I wonder if you plan to try to review or change that policy and enforce a different concept with respect to future rails.

Mr. SKINNER. We did talk about that at some length.

Living in Chicago, I have seen several rail lines abandoned. Some property has been built on, with buildings. Others have been protected as a nature trail. They, of course, would be available.

I don't think we should be turning over to the private sector rights-of-way that clearly, if you look at them in light of a National Transportation Policy, looking 50 to 75 years out, may have a useful purpose, if we can avoid it.

I think an informed decision should be made before we turn over valuable rights-of-way to the private sector.

On the other hand, we should not unnecessarily delay the turnover if it makes a lot of sense. You have to have a policy in this regard. It has to be a reasoned policy. Those are valuable for development purposes in some cases, but they may be in other cases more valuable as future rights-of-way. And if that is the case, they ought to be preserved.

Senator KERRY. Well, as you know, the ICC has granted the overwhelming majority of abandonment applications, and it has done so applying what many have criticized it for being, a very unique and sometimes exotic formula.

It is my understanding that it isn't supposed to grant an abandonment application unless public convenience and necessity so warrant.

Can you through the Executive process tighten that in some way, notwithstanding the separateness of the agency, or should we consider doing so in some way that would be more clear about that?

Mr. SKINNER. Let me get back to you on that. I am just not sure.

Obviously, the ICC, as we have talked about earlier, is an independent commission. On the other hand, they make decisions that affect national transportation policy and they ought to be on the team. They are part of the law. They ought to be on the team and we ought to work together.

As I think I have indicated already, I am a team player and I hope ICC will be on the team. I am going to do everything I can to make sure they are on the team. There are various ways we can affect that. I am going to do that.

We will get back to you on that.

Senator KERRY. I appreciate that very much.

I'd like to ask you now about two projects that are very important in the State of Massachusetts. Again, we discussed them somewhat.

We have what is known as the Southeast Expressway there, which opened in 1959. It was designed for some 75,000 vehicles. It has 150,000 now daily, and is growing.

The Old Colony Rail Restoration Project is one that I know you are familiar with. We talked about it.

The former Administrator of UMTA, Mr. Stanley, indicated the administration would fund Old Colony 50 percent if the State came up with a matching 50 percent bond. We did so at $195 million.

The administration seemed to back off that and, needless to say, it is our hope that we will be able to proceed forward and have an expeditious review of the Environmental Impact Study.

Can we have your assurance that we would have that expeditious review and movement?

Mr. SKINNER. I am not familiar with the details of it. I think it is important, if commitments are made, that they are kept.

On the other hand, I start with a clean slate. I have no commitments yet, other than to look at a number of things and to support something like essential air service and a couple of other things.

We will take a look at that and we'll get back to you. I don't want to commit to $195 million, which would be, I assume, the Federal share, until I have taken a good look at it. I don't even know if I have $195 million to put there anyway.

So we'll have to wait until we get into our budget talks. But we'll take a good look at it.

Senator KERRY. One other issue that concerns me enormously is the question of the Guilford Transportation System and the question of railroad safety.

We have had runaway trains, fatalities on the railroads. I know that Senator Mitchell has raised this issue with you.

Mr. SKINNER. Yes, he has.

Senator KERRY. I wonder if you might comment on that.

We had some assurances in the approval process of your predecessor regarding safety coming first and, regrettably, it really didn't come first, and the deaths continued, the runaway trains continued, spillages continued, and so forth.

There seems to be a more significant real estate oriented interest in the management of the railroad, rather than a running of a railroad interest.

Do you have any views as to that particular problem? If not, at this time, I wonder if I might ask you if you would be willing to review it with me and to think about how we could proceed on it in a less confrontational manner.

Mr. SKINNER. Well, I clearly believe that if you are going to operate a railroad, you have an obligation to operate it safely and efficiently, and you can't shun that responsibility because you want to develop some land.

You know, you've got the land and the ability to develop the land at the same time that you have the responsibility to run the railroad.

So we are clearly committed, I am clearly committed to enforcing safety-related violations on any line, whether it be the one in question or others.

As to whether or not the Department of Transportation is doing its job in that regard, which is what Senator Mitchell and I discussed, we are also going to take a look at that. It appears to me that request was not unreasonable and I am going to try to see if I can make sure we have the proper organization in place to insure the people of your State and his State that it is effective.

Senator KERRY. Good. Thank you very much.

Mr. Chairman, may I have one last question? Is this the second or the first round?

The CHAIRMAN. This is the first round, Senator.

Senator KERRY. Then I will submit it. May I submit my question in writing?

The CHAIRMAN. Yes, please do.

Senator KERRY. Thank you very much.

The CHAIRMAN. Very good.

Senator Gorton.

Senator GORTON. Thank you, Mr. Chairman.

Welcome, Mr. Secretary-Designate. I think both our own personal meeting and your candor and wit here bode well for your career as Secretary of Transportation.

My first question was triggered by an answer which you gave a few moments ago to Senator Exon, when you made the succinct and I think accurate statement that deregulation, at least with respect to air passenger travel, works when there is competition.

My question to you is do you believe that there can be the kind of competition which justifies deregulation when a major airport, say one of the top 20 in the United States, reserves or grants to a single airline 50, 60, or 80 percent of all of its gates?

Mr. SKINNER. Well, clearly there can't be competition at 100 percent. What that magic departure point is I don't know. But in talking to a number of people within the industry, it appears that if you want to have competition at a particular airport, they've got to have a sufficient amount of landing spots and gates so they can go toe to toe with their competitor. And if their competitor has 20 flights and they only have two, they are at a significant competitive disadvantage.

So I don't know where you draw that magic line. But I would agree, I think, with your basic premise, that if there comes a point in time when one airline has a monopoly over the infrastructure of an airport, you are not going to have competition. We have to find ways in the short range as well as the long range to do that. And that takes a plan of some duration, because you can't just build new gates, new runways, and new airports overnight. It is a 10, 15, or 20 year project.

We don't even have those problems identified yet, and there is not a program in place, Senator, that talks about the need for additional airports and how we are going to fund them.

So I think we have to have a short-range solution to creating a competitive environment and we have to have a long-range one. I would hope the long-range one would be complete and full capacity and access. Then the government doesn't have to get into the business of regulating who gets gates and who doesn't get gates. Anybody who has the money to put the airplane on the line and fly the route will have a gate and a landing spot to use with it.

Senator GORTON. I certainly agree with that long-range philosophy. But you are going to have a short-range problem.

Do you intend to make a determination as to what level you feel there can be effective competition?

Mr. SKINNER. Yes.

Last night, I was discussing just generally with one of the Cabinet designees this whole issue of competition and what competition really means.

I actually believe that the time has come with the system almost at full capacity, that we have to examine that issue and find out what our short-term solution is.

I don't predict today what that is. But I know I think we have to at least inform ourselves as to how big a problem it is, the impact it is having on the American economy, and then come up with a proposed solution, to propose maybe to the Congress or to go through rulemaking.

Senator GORTON. That was my next question.

Do you believe that the Department of Transportation has the authority now to impose such a solution, or do you believe that you may well have to come to Congress with a recommendation?

Mr. SKINNER. Well, an individual who represents himself has a fool for a lawyer.

I am a lawyer and I am going to ask other lawyers to give me an opinion on that before I render one.

I would hope that the rulemaking power of the Department is substantial. But we may need to come back to the Congress for legislation. Frankly, even if it involves just rulemaking and the authority is there, I think we ought to keep Congress advised, rather than putting a rule out—the interested people in Congress, not knowing anything about it, having some kind of impact, and then all of a sudden I am up here, explaining why I did something, when I could have told them about it earlier and gotten their input.

So I think an early warning device would probably be appropriate, whether it's Congressional action or by rulemaking.

Senator GORTON. On another subject, one which was brought up by Senator Robb but to which I don't think I heard as precise an answer as I would like to hear, I am informed by people knowledgeable with respect to the Federal interstate highway system that in 1991, it will have fallen short by some $4 billion of what is necessary to complete the system.

So my specific question to you is have you formed an opinion? Do you believe that the act should be extended for another year or more than that, beyond 1991, in order to complete the system?

Mr. SKINNER. Well, what I do believe is that we have serious infrastructure problems. All of our proposals and plans have not been implemented, and we are going to develop a whole new set of programs and plans for the future that, hopefully, will come on line, or at least the plans will be done in time to be reviewed during the reauthorization process.

But my guess is those problems that you have talked about are just going to be part of our overall plan, which is going to look way out into the 21st Century, and then we'll back into the incremental steps that must be taken to put it into place. That problem will be addressed as part of our policy.

So I probably won't be able to answer that for a while because I think we ought to look at that problem in the context of our long-range problem and then see if it makes sense and what makes sense.

Senator GORTON. Now I have one very specific State-oriented statement and question of general import for you.

On December 20, 1988, the U.S. Court of Appeals here in the District of Columbia Circuit affirmed an earlier ruling that the Department of Transportation had lost its right to select the carrier for the Seattle-Tokyo route because DOT had not met a statutory deadline. Instead, the Transportation Department was forced to accept a two year old ruling of an administrative law judge that the route should be awarded to Continental Airlines.

The entire Washington Congressional delegation, the governor, the mayors of Seattle and Tacoma, the Port of Seattle, the Chambers of Commerce, and 165,000 individual citizens had all signed petitions in favor of United.

At various times during that two year process, DOT officials had recommended that each of the competing carriers—United, American, and Continental—be awarded the route. In the end, the final decision

was based solely on a procedural ruling and not on the merits of the case.

Now, you were not Secretary of Transportation, but it is going to be your DOT. I would like your commitment to review the history of this proceeding, which is a real embarrassment, to try to find out what went wrong, where the process fell apart, and to assure that it doesn't happen again, either in our community or in any other.

Mr. SKINNER. You have that commitment. I am glad that that didn't happen on my watch. I want to make sure that something like that does not happen on my watch.

I will take a look at it.

I am a little familiar with it because I have read in the paper of the decision, and I am well aware of the various forces that were competing there.

I think we want to make sure that as long as the Department of Transportation has the responsibility to award routes, that we have a procedure in place that is fair and equitable and that the decision will be made on the merits, not on procedure.

I do pledge to you that we will take a look at that, will learn from that decision, and will try to make sure that it does not happen again.

Senator GORTON. The other half of that proposition is the fact that Continental now has the route.

United has announced that it will terminate its Seattle-Tokyo service on March 25. Continental has stated that it intends to begin service on April 26, one month later, which is a serious problem to our airport and to the Port of SEATTLE. But before Continental can actually begin service, it must secure a variety of approvals from the Government of Japan.

In order to serve Norita Airport, a carrier must have the right to a landing and takeoff slot. Continental currently has fewer slots at Norita than it needs to use for its existing service from Micronesia, and, thus, has to have additional slots.

Most other carriers also have fewer slots than they need at Norita, and thus it is going to be very difficult for Continental to get those.

United required several years to obtain the necessary operating authorization from the Japanese Government. I would like your commitment that you will make it a very high priority to work with the State Department to assure prompt authorization, so that Continental can at least minimize the disruption of service which has already taken place because of the transfer of that authority.

Mr. SKINNER. I will do that.

Let me just take a second to tell you where I stand on that issue.

I think we have a right to compete in the world on an equal basis, and I am going to be a strong advocate that we get treated fairly in the world. This includes Japan, this includes East Europe, and this includes South America.

I am not going to take a back seat. I have to work with the State Department. It will be a team basis. I recognize that I will probably have some disagreements with them. One of my experiences does not in-

clude working with the State Department. I guess after I have been through what I have been through since the eighth of November, I am ready for it.

Jim Baker is a highly qualified man and I have the utmost respect for him. He is a friend of mine. But we have to compete in the world market. We have to be treated fairly, and that means in Japan we have to be treated fairly on access.

It is unfair for Japan and the United States to agree on a route, for instance, for Japan to put their planes on line within a week or a month and for us to take a year and a half before we get ours on line. We have given them a competitive advantage that was not intended under the law, that was not intended under the treaty, and I am going to try to make sure that that does not happen.

Senator GORTON. Thank you, Mr. Chairman.

I will submit the rest of my questions.

The CHAIRMAN. Thank you.

Senator Lott.

Senator LOTT. Thank you, Mr. Chairman.

I want to first congratulate you, Mr. Skinner, on your selection as the Secretary of Transportation Designate. I also want to commend you on the comments that you just made. That really sounded good.

I hope that as the Secretary of Transportation, like a lot of other Cabinet Secretaries, you will not be taking orders from the State Department. The vigor with which you responded to that question made me feel better in that regard.

Mr. SKINNER. I may be a little naive, but that is going to be the position that we are going to take.

Senator LOTT. Just don't let them shove you around.

That leads me to one of the questions that I would like to ask you. I know the hour is late and I apologize for being late myself this morning, but I, too, was tied up in the Armed Services Committee with regard to Senator Tower's confirmation hearings.

Congress passed a few years ago the International Air Transportation Fare Competition Competitive Practices Act, and we are very much concerned about the anticompetitive, unfair restrictions by foreign governments or foreign airlines that sometimes make it very difficult for U.S. airlines to fly into their countries.

There has been a particular case recently involving British Airways.

I won't get into the problems of this particular case except to say that one of the problems with regard to this has been that DOD failed to take the next step in the process set out here and to impose sanctions. Just the sheer delay sends a message to other countries and to foreign airlines that we really are a paper tiger.

I would like to get your assurance that when we have a law like this on the books and when an airline or a foreign government is making it difficult for American domestic airlines to compete, that you will act, that you will act expeditiously, and that you will impose aggressively sanctions called for under the law.

Mr. SKINNER. Well, Senator, I have never been called a paper tiger. I have been called a lot of things over the years, but paper tiger is not one of them.

I thought that, as United States Attorney, I was fair, but that I was a pretty vigorous prosecutor. I have been a very strong advocate for the mass transit organization in Northern Illinois. I think you are probably going to find that I am going to be a strong advocate across the board.

If it's the right thing to do, if it's the fair thing to do, I am going to try to make sure that we do it.

Senator LOTT. Timeliness is also important.

Mr. SKINNER. And we'll do it in a hurry.

Senator LOTT. One of the great things about the Senate is that, thank goodness, Mississippi, Vermont, and Idaho have an equal number of votes with Illinois, New York and Massachusetts. But in Vermont, Idaho and Mississippi, we don't have a lot of urban mass transportation. I am sure you have done an excellent job there in Illinois. In fact, I am positive of it because you have come highly recommended and you responded to all of our concerns with great candor, and we appreciate that.

But I feel very strongly that States like my own State have been ignored with our transportation problems, which are basically rural highway systems.

Now I know you have been questioned about this already today and numbers of people have referred to the Highway Trust Fund and the importance of the 1991 date and the need for an extension.

But I would like to get your comments and also your commitment that you are not going to be totally tangled up with urban mass systems and Amtrak and not deal also with rural highway needs in this country.

Mr. SKINNER. You are right, Senator. I do recently come from an urban background. But that is only 1984 vintage and to date.

Senator LOTT. Then I think maybe you can get over it.

Mr. SKINNER. Well, I grew up in Springfield, Illinois.

Senator LOTT. That's better.

Mr. SKINNER. I went to school at the University of Illinois, at Champagne-Urbana. Long before I was flying an airplane or doing anything for mass transit, I was driving a truck in summers, all over the Midwest, six days a week, 12 hours a day, without any amphetamines, and was just trying to get some money together to go back to school.

So I understand the need for roads in rural areas. I remember the roads in Iowa. If you will recall, they used to have the old curbs on them. I used to drive that truck up, and it used to come back down, and then I'd have to drive up again. That indicated to me clearly that we needed a better road system in Iowa and we needed a better road system throughout the United States.

I hope the Congress will work with me as we develop a National Transportation Policy. I assure you, roads in the rural area and in the metropolitan area are going to be a key issue because they are and continue to be the essential way that most Americans travel within this country.

Senator LOTT. One last question and then I will yield my time.

With regard to bridges, there has been a lot of recognition, I think with the general public and in the media, and a lot of talk in Congress about the need to deal with deteriorating bridges in this country. And yet, I don't think we really have attacked the problem.

I think there is a great danger there, that we are going to have some real disasters.

Have you given any thought to how you would plan to attack that pending disaster?

Mr. SKINNER. I think the problem is the American people don't understand the need to rebuild our infrastructure.

Infrastructure is not sexy. Infrastructure we take for granted, whether it be in Chicago, where we took for granted our mass transit infrastructure, which we are in the process of rebuilding with our strategic plan, or bridges and highways in rural areas, or infrastructure at airports.

We have to start educating the American people that we can't take it for granted. It is old. It needs to be replaced. It is going to cost money. And, in the long run, it is essential to our national defense and to our economy that we have that system.

Once we start developing our policy, educating the American people, then I think we are going to be able to put a program in place to rebuild it.

Senator LOTT. Thank you very much for your testimony.

Thank you, MR. Chairman.

The CHAIRMAN. Thank you.

Senator Danforth.

Senator DANFORTH. Well, the end has come, Mr. Skinner.

Mr. SKINNER. I'm disappointed, actually. This was getting to be kind of fun.

Senator DANFORTH. I'm not going to ask you any questions unless you want me to.

Mr. SKINNER. Well, no. It is not that much fun, Senator.

Senator DANFORTH. I would like to make just three editorial comments on what you have said.

First, I commend your position on random alcohol and drug testing. The evidence is clear. We have had hearings in this Committee on the problems of alcohol and drug use in our transportation system. The evidence has been overwhelming that, without mandatory random testing, there is no effective program.

I recognize that the courts will have the last say on this issue, but I applaud your position on the policy.

With respect to our view of trying to establish a National Transportation Policy, again, I think you are absolutely right.

One of the problems we have in government is that we deal with every problem on an ad hoc basis—how do we put out this fire today. It is very seldom that we take the long view of what our assets are, what our possibilities are, and what our needs are. I think that if you can stick with this program of trying to establish an overall policy, that is a very, very good thing to do.

Finally, on the point that was made by both Senator Exon and Senator Gorton with respect to airline concentration, clearly the intention that we had when we deregulated the airlines has been thwarted by concentration.

There cannot be competition when one airline has 75 percent, 80, or 85 percent of the flights going in and out of an airport, and clearly this has to be dealt with.

I know that commitment to deregulation is a philosophical matter with a lot of people. But my hope is that you would handle this as a very practical problem. If there is not regulation and, further, if there is not competition, the public is in a vise that none of us wants the public to be in.

So I hope that you will be able to take a very fresh approach and solve this problem of undue concentration.

Mr. SKINNER. Thank you, Senator.

The CHAIRMAN. Mr. Skinner and Members of the Committee, there are a number of letters and statements from outside parties, both pro and con, and they will be included in the record.

Senators Ford, Pressler, Exon, Bentsen, Gore and others on the Committee have questions that will be submitted no later than 12:00 noon tomorrow, and some questions from Senator Alan Cranston, Chairman of the Banking Subcommittee on Mass Transit Jurisdiction.

We will take this up in full Committee for confirmation on next Tuesday.

Let me thank you. You have done a superb job. You are a breath of fresh air.

Let me just admonish on this issue of deregulation.

What happened, really, is I supported deregulation. We all did, because we were against a bulging bureaucracy. However, deregulation did not mean no regulation, nor did it mean forget the Congress and just put in your own policies.

You really hit the nail on the head—I wrote it down—when you said we shouldn't go around Congress by disregarding the law, when Senator Exon was talking. For example, we would not have this hiatus about the Staggers Act if they would only do their job at the ICC.

At the FC, they have acted unilaterally to do away with cross ownership, added trafficking, must-carry, the fairness doctrine, minority ownership, just going pell mell down the road. They are not administering the policy of the people's government, but their own fanciful idea that the best regulation was no regulation.

As a result, we just didn't confirm anybody. We just didn't confirm them. We just squatted in the middle of the road. Now, we hardly have a commission over there. And we're going to do the same thing until they come to their senses.

I won't take much more of your time because you have been outstanding and very indulgent, and we have been working together for a month on this. However, with respect to airline deregulation, we were concerned in 1978 that people in small and medium-sized communities would lose service. After all, back then the right to provide airline ser-

vice was authorized on a proven basis—you and I have been in this game, as lawyers—of public convenience and necessity.

What has happened in the airline industry, in reality, is just not a question of Federal money. Certainly, we have a small community subsidy program that is $6.6 million in the hole. Those 150 communities just don't have that kind of traffic to support air service. Without the EAS subsidy the bigger carriers would cancel out the service. The fact is that we find now that 85 percent of the small and moderate sized communities are subsidizing the long hauls to Las Vegas, Los Angeles, Chicago, Miami, whatever.

Yes, thanks to Piedmont, we've got two flights a day from Charleston SC to National Airport. But before deregulation, we had three flights, and they were full all the time. I had one secretary who got me on coach class and she had to do it two or three weeks ahead of time to keep it there, otherwise you would have to buy a first class ticket.

But competition without no regard to service whatsoever just congealed the airlines into hub fortresses at St. Louis, Detroit, Chicago, Pittsburgh, and what have you. It is not just the matter of imprisoning the passengers, it's imprisoning the pocketbook. It is a monopolistic practice that has developed there.

When you get down to reviewing trucking regulation, look not only at the hub proposition on the airports, but, right to the point, look to where service has been cut out. The larger trucking lines have just eliminated service to smaller communities. There is no reason to have a terminal in Monk's Corner and Waldeboro. We'll just close those down and save the money and serve Charlotte and Atlanta and the larger towns.

Does it pay for another operator to come in? Yes, he could get a truck and give you the service. But he can't pay for a terminal and all on that limited amount of business.

So, actually, we had a service that the public became accustomed to and relied upon. And what we are really doing now is doing away with the service. In essence, when they were going pell mell for deregulation in the airlines, we were doing away with the airlines. They all were falling out of the skies; there have been safety problems; there are monopolistic practices.

My fares have quadrupled. I can fly 600 miles further to Miami and get there an hour earlier on one-fourth of the fare than it takes me to get from Washington to my home town.

So when you just automatically say "deregulate,' oh, it's a wonderful thing and I know they keep putting out the articles that it has worked. But it has not.

It has not worked at all because we went totally overboard the other way. We did not do away with the unnecessary bureaucracy. We did away with the service.

Before deregulation, we had an orderly system. You had to go up there and prove the public convenience and necessity in air transport, motor transport, and all the rest, down the line.

Now, just to go and have deregulation for no regulation's sake. Well, if you do that in the trucking industry, we could end up with about six big carriers and no service.

People in America are wondering what is going on, just like these Senators are now fighting, trying to get an airplane out of South Dakota, Alaska, or these other towns, or even right in my own South Carolina.

So I would urge you to be very deliberate as we move along on this matter of deregulation. We have had just exactly what you really characterized as a disregard of the Congress, just to go around the Congress by disregarding the law.

That is exactly what has been the real hangup on the ICC, the FCC, the FTC, the FAA. That has all been building, building, and building for some time now.

With that, let me say that I am delighted with your attitude and your knowledge, as well as the way you handled yourself this past month. I congratulate you.

Mr. SKINNER. Thank you.

The CHAIRMAN. I wish you the best of luck. I don't think you will have any trouble next Tuesday morning.

We will report you out and confirm you next week.

Mr. SKINNER. Thank you.

Let me just say this. I will try to be deliberative in everything I do.

I just want to take the opportunity to than the two remaining Members of the Committee, the Chairman and the Ranking Minority Member, and their staffs. Getting ready for a confirmation process is a complicated procedure, from the day your nomination is announced until today—though I will have a courtesy hearing tomorrow, but the formal hearing is over. You can't do it alone. You need a team.

I had a team of people helping me from Transportation, from Transition, from my law firm. But I also had a team that helped me from the Senate and the House, and I want to thank them personally. I want to thank your staffs personally.

Thank you, Senator Danforth, and especially you, Senator Hollings. I'm sorry about your Christmas. I promise you you'll get one next year.

The CHAIRMAN. That's all right. Thank you very much.

The Committee will be in recess until the call of the Chair.

[Whereupon, at 12:50 p.m., the hearing was concluded.]

[The following information was subsequently received for the record:]

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January 18, 1989

The Honorable Ernest F. Hollings
Chairman, Committee on Commerce,
Science and Transportation
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed are my responses to the Committee's pre-hearing questions concerning my nomination to be Secretary of Transportation.

I would be pleased to provide any further information required.

Sincerely,

Samuel K. Skinner

Enclosure

Question 1: If confirmed as Secretary of Transportation, what do you expect will be your most significant contributions to our national policy? In brief, what goals and objectives will you bring to this cabinet position? Are there specific initiatives you propose to undertake as Secretary?

Answer:

If confirmed as Secretary of Transportation, my principle goal, in consultation with the Congress, the public, industry, and the President, will be to develop a national transportation policy that enhances both our national security and strengthens our economy. A national transportation policy will enable industry to provide efficient, competitive delivery of goods and services, and must be one that delivers the public to its destinations quickly, efficiently, at the right price -- and safely. This will require attention to current and future infrastructure needs; a commitment to intermodalism; and will necessarily require a determination to provide services through the free market mechanism to the extent possible.

In short, my goals would be safety, efficiency, cost effectiveness -- and a comprehensive system designed to serve both the peacetime and national security requirements of this nation. With respect to specific initiatives, I am not so presumptuous as to believe that I am fully up to speed on the multitude of complex issues confronting the next Secretary of Transportation; and I would respectfully decline the opportunity at this time to lay out specific initiatives. I will say, however, that before implementing new initiatives, I intend to involve fully and take into account the views of the Congress, industry and the public and, of course, the President.

Without prejudice to my ability to have an adequate opportunity to further study the many issues, let me at least say this: I recognize that DOT is a key player in other areas in which I would expect to play a significant personal role. One of these areas is protection of the public from the acts of terrorists -- whether they act from abroad as in the Pan Am tragedy last month -- or whether they are the individual acts of personal terrorism committed by drug merchants preying on our citizens. We will act aggressively to provide greater physical security against terrorists in aviation through the use of technology and enhanced screening; and I am committed to working with the President and Bill Bennett, the new "Drug Czar", to eliminate completely the use of drugs from America's transportation system.

Question 2: Please describe your general regulatory philosophy. In the area of transportation, where might you be expected to favor regulation and where might you be expected to favor deregulation? What do you believe to be the Federal government's role in transportation?

Answer:

As I stated in my first response, the safety and efficiency of our transportation system will be my highest priority. The government's primary role is to foster a competitive, economic environment in which transportation systems will flourish, but the particular context can call for the use of different tools to accomplish these goals. Regulation is one of those tools, and I would expect to use it where necessary. At the same time, regulation often imposes substantial economic burdens on industry, the public and the nation. In general, the federal government should regulate only when the benefits of the regulation will justify the added burden. I supported the 10-year effort led by many here in the Congress to accomplish substantial economic deregulation in transportation and other industries.

There is an important difference, however, between regulations whose purpose is to assure public health and safety, and economic regulation. The need to place a high priority on regulating transportation safety is clear. Nevertheless, even in the safety area, regulations must be carefully developed, well-targeted, and not overly broad.

In addition, there can be a need for federal regulation in the protection of the environment and in such special areas as provision of facilities for the handicapped. Where I am convinced that regulation is necessary, I will pursue it vigorously and promptly. Long delays in the rulemaking process create uncertainty that hurts everyone. I intend to be sensitive to the interests of the affected parties and to take their comments into account, but I see no reason why important rules should be years in the making.

Question 3: Do you have any plans or views regarding a possible reorganization of functions within the Department of Transportation (DOT)?

Answer:

I am aware of the intense scrutiny that this issue received in the last Congress, and I am familiar with many of the proposals for change originating in Congress, the Administration, and in some of the "think tanks" in Washington.

If confirmed, I would plan to review these and other serious proposals, with a view to changes that would improve both the functioning of the Department and the execution of its mission. I believe a lot can be achieved through active management, and I intend to reach out not only to the Congress for thinking, but to industry, consumers of transportation services, and to my own Department for guidance. The first step is to examine the underlying policy issues behind the proposals, and I intend to do so after immersing myself in the substantive matters of the Department.

Question 4: On November 21, 1988, DOT issued final regulations establishing requirements for drug testing safety-sensitive employees in each of the modes of transportation. What are your views on the need for mandatory random drug testing of such employees? In your view should alcohol be subject to mandatory testing as well?

Answer:

Like President-elect Bush, I strongly support mandatory random drug testing of employees who hold safety-related positions in this industry. I also agree with him that the constitutional safeguards in this area must be honored, and that the individual's privacy and dignity must be upheld.

As it is, the courts are addressing virtually every aspect of the Department of Transportation rules. The Department is awaiting these rulings and will of course adhere to the outcomes.

If confirmed, I would ensure that the Department works with the Justice Departments and other involved federal agencies, the new "Drug Czar", as well as with the Congress and the industry, including employee representatives, in implementing the anti-drug rules.

As for mandatory testing for alcohol misuse, alcohol is a legal substance and thus it presents different questions than illegal drugs, whose use alone violates the law. I am personally very concerned about the devastating effects of alcohol abuse on society. I am told that Secretary Burnley ordered a report on the question of testing for alcohol abuse from the DOT General Counsel, and I believe I should study the final report as a first step in setting further rulemaking priorities.

Question 5: In 1980, Congress passed two significant transportation measures, the Staggers Rail Act and the Motor Carrier Act. These measures significantly deregulated the rail and trucking industries, respectively, while retaining regulation in those areas either where Congress concluded there was a need to promote competition or where the marketplace could not be relied upon to provide effective service at reasonable prices. While most observers have seemed to support the basic objectives of the Staggers and Motor Carrier Acts, each measure has received some criticism -- from shippers who favor a measure of additional regulation in the rail industry and from shippers who favor further deregulation in the motor carrier industry. What are your views on these two issues? Do you favor legislation to amend either the Staggers or Motor Carrier Acts?

Answer:

If confirmed, I intend to give the utmost attention to these critical economic regulatory issues, starting with listening closely to the varied views in the two industries, but I am of the impression that both the Staggers Act and the Motor Carrier Act have provided important economic benefits to the transportation sector and to the overall U.S. economy.

With respect to the railroad industry, it is a great tribute to the legislation approved by this Committee in 1980 that the question commonly asked today is "what changes in railroad regulation should we consider making?," rather than "will the railroad industry survive?" The revitalization of this industry since passage of the Staggers Act has been one of the real success stories of regulatory reform, and most rail shippers benefit from far better service than was available prior to 1980.

I am aware that some rail shippers feel that they have not benefited from regulatory reform. It is my belief that their forum for relief should be the Interstate Commerce Commission, or its successor, and that legislation amending the Staggers Act should only be a last resort.

With respect to economic deregulation of motor carriers, the evidence of the past decade seems to demonstrate the benefits of deregulation.

Nevertheless, I am interested in what both the industry and consumers of its services have to say on this subject, and I expect that after that I will have more to say. I do plan to give careful consideration to the issue of further legislative deregulation of motor carriers, starting with discussion with the Congress.

Question 6: Do you have any views on proposals to sunset the Interstate Commerce Commission (ICC)?

Answer:

Currently, the ICC's regulatory functions are mainly in the trucking and railroad industries, with only very limited responsibilities concerning domestic water carriers, the intercity bus industry, brokers, and household goods freight forwarders. With the exception of railroad regulation, there are legitimate questions raised about the value in existing ICC regulation of surface transportation.

I am aware that the Reagan Administration proposed to abolish the ICC and transfer the remaining railroad regulatory functions to other agencies, and that President-elect Bush supported this effort. In order to preserve the reforms of the Staggers Act under the proposal, the ICC's existing railroad freight regulation would be transferred primarily to the Department of Transportation, with Department of Justice oversight on antitrust matters. I have not reviewed the plan in detail.

If confirmed, I plan to look very carefully at the feasibility of further trucking deregulation. Should such legislation be enacted, the ICC would have little left to administer other than railroad regulation. At that point, the question of ICC sunset would deserve a new look. However, I would like to study this area further before offering a definitive answer.

QUESTION 7: The Congressional Office of Technology Assessment (OTA), in conducting a comprehensive study regarding the issue of hazardous materials transportation, concluded that the primary unmet national need in this area is the development of a national strategy to provide training for State and local emergency response personnel. OTA has testified that of the nation's 2 million emergency responders, as many as 1.5 million lack adequate training. During the 100th Congress, the Department of Transportation advanced legislation in the hazardous materials transportation area. However, the Department's proposal did not address the issue of funding to assist States and localities in meeting the training needs identified in the OTA report. As Secretary, will you be willing to address this funding need, even if it means the development of either a new funding source, such as a registration program, or greater reliance on existing sources of revenue.

ANSWER:

Yes, I welcome the opportunity to work with the Congress, state and local governments, and industry to address the issue of funding for emergency response to transportation accidents. Hazardous materials transportation is a matter of particular concern to me, given the critical safety issues and the concerns of localities. In this case, like other policy areas, there is a need to engage the involved parties in a serious policy-setting process, and to coordinate with other involved authorities such as the Federal Emergency Management Agency. Issues that need to be resolved include determination of actual needs; determination of costs; determination of the appropriate role of federal agencies (e.g., the Department, the Federal Emergency Management Agency (FEMA) and the Environmental Protection Agency (EPA) and state government; and determination of the mechanism for funding (general revenues, existing user fees, new fees).

Question 8: The Reagan Administration's budget proposed for fiscal year 1990 has again recommended the elimination of all funding for Amtrak. Adoption of this proposal would mean the end of passenger rail service in this country, certainly outside of the Northeast Corridor. Amtrak has also testified that this action would trigger a new obligation for approximately $2.3 billion in labor protection costs. What are your views on the need for maintaining nationwide passenger rail service in the U.S.? What do you believe to be the Federal government's role in this area? What is your view regarding the capacity of our highways and airways to absorb the more than 20 million passengers Amtrak carried more than 5 billion passenger miles in fiscal year 1987?

Answer:

I take a very personal interest in Amtrak, both as a rider and because I would become a member of the board of directors should I be confirmed. I would look forward to this role.

During the campaign, President-elect Bush acknowledged Amtrak's role in our nation's transportation network, while also acknowledging that the deficit situation makes federal financial assistance difficult. The President-elect emphasized the distinctly positive trend in Amtrak's ability to finance its operations from revenues (from 48% in 1981 to an estimated 69% in 1988).

While I cannot at present commit the President in a budgetary matter, I would simply indicate that an effort to put Amtrak on a path to self-sufficiency would be one of my prime goals.

Question 9: As a pilot, you have developed a first-hand understanding of the importance of safety and the Federal Aviation Administration's responsibility for ensuring aviation safety. In what areas must the FAA work to improve air safety? If confirmed, what initiatives will you undertake in this regard?

Answer:

As both a pilot and a "frequent flyer", I fully recognize the significance of aviation safety and will do everything possible to improve on an already commendable record. I admire and respect the dedicated men and women staffing the FAA and an industry that makes aviation safety its first and foremost priority.

While we cannot and should not rest until we have an error-free system, it is important to recognize that, on the merits, the system is safe and improving. If we compare commercial aviation safety for the ten years after airline deregulation (1979-1988) against the ten years before, we find that there has been an increase of more than 40% in total flight hours, but a decrease in the accident rate of 39% and a decrease of 46% in the fatality rate. General aviation is also showing continuing safety improvements, with the number of fatalities cut in half since 1978 and the fatal accident rate for 1987 and 1988 at its lowest level ever. Nonetheless, I believe that there is always room for improvement.

A number of FAA programs can be cited as indicative of the candidates for renewed emphasis. First and foremost would be the "people" area. FAA must be permitted to hire sufficient numbers of air traffic controllers, security specialists, airline inspectors, and maintenance technicians to ensure that aviation safety is not only maintained but enhanced. I and most certainly the FAA Administrator would press very hard for full and adequate staffing in all these areas. Part of this planning includes efforts to revamp the recruitment and training process to ensure timely hiring and increased proficiency. It is also my intuitive belief that the current "pay demonstration" effort at important air traffic centers will not only attract full staffing, but may also improve safety through greater staff stability.

Second would be emphasis in the "hardware" area. I am going to make every effort -- with the FAA Administrator -- to see that the NAS Plan and its major modernization of the air traffic control and air navigation system goes forward as quickly as possible and with a budgetary framework that makes sense. It is important that the Congress and the public renew its 1981 recognition of the importance and sophistication of NAS plan, as well as its more up to date components. We must ensure, consistent with our budgetary limitations, that we provide state of the art technology across the board in aviation system to maximize not only safety, but efficiency and passenger convenience.

Last is the "procedures" area. There are many hardware oriented or technical areas that will continue to be the subject of rulemakings and directives. Some of the actions with the most safety pay-off are already underway, such as the implementation of the windshear avionics and traffic alert and collision avoidance rules. Work is also continuing on occupant crash and post-crash protection requirements--for example, airline seat and baggage compartment retrofit.

In addition to those kinds of activities, I believe the aging aircraft issue should receive high priority attention. As aircraft continue to age while remaining in our fleet, ever-increasing scrutiny has to be given to matters like corrosion protection programs, more stringent inspections and maintenance, and possibly to mandatory replacement of certain aircraft components after a certain number of cycles, flight hours, or years. The answers will have to be found by the FAA, the airlines, and the manufacturers all working together, and I am satisfied with the level and quality of the joint actions already underway. I do not believe we have any evidence to date that would support the mandatory retirement of aging aircraft, if the aircraft have been properly maintained.

A final area calling for even greater attention is the performance of the human being--in air traffic control, in the cockpit, and on the maintenance line. I am especially concerned about pilot performance because of the human errors associated with many of the recent commercial aviation accidents. NASA studies performed over the last 10 years indicate that more than 60 percent of fatal air carrier accidents were not directly linked to mechanical failure or lack of pilot skills but rather to a breakdown in cockpit communication. These NASA studies point to a deficiency in present recurrent training in areas related to human factors. Thus, a number of training initiatives that I am told are in process will be given very high priority if I am confirmed. As the average level of pilot experience drops and cockpits and aircraft become more and more sophisticated, these measures will become increasingly important.

Airline deregulation has not reduced air safety; rather, it has shown substantial and continued improvement since 1978. The next FAA Administrator will receive whatever assistance he needs from me to pursue an even better safety record than the outstanding one we have today.

Question 10: The tragic destruction of a Boeing-747 aircraft over Scotland last month highlighted the critical importance of improving airport security. Do you come to this position with any specific ideas as to what should be done to improve the security of the traveling public?

Answer:

I believe that we must continue to do all that is technologically and humanly possible to reduce the traveling public's exposure to such criminal acts. I would support funding for added security personnel and new R&D funds for bomb detection.

On December 29th, the FAA Administrator ordered a series of comprehensive, mandatory procedures to significantly tighten U.S. air carrier security requirements at airports in Western Europe and the Middle East. FAA is continuing security assessments of foreign airports, and Federal Air Marshals continue to fly on U.S. air carriers operating routes in areas with the greatest threat.

I believe that the greatest security improvements will be in the development and use of technology to detect explosives and weapons and in the application of security measures designed to identify and to deter potential threats to civil aviation security. Therefore I will give the highest priority to continuing research and development efforts in these areas.

To the extent that these efforts bear fruit and result in new FAA directives to the nation's air carriers, I also believe that a means must be employed to assure that foreign air carriers that offer service to the United States should be required to make the same improvements. We simply cannot allow the international competitiveness of our domestic carriers to be eroded -- the threat to civil aviation is an international concern and it must be addressed as a joint effort by all nations. If confirmed, I expect that the FAA Administrator and I will confront and address this international threat early on, and I will work closely with the Congress and the State Department to ensure that the traveling public remains safety -- wherever they fly.

Question 11: Since the Pan Am incident, there has been a great deal of debate about whether the Federal government should have notified passengers of a potential terrorist act. What are your views on this issue? Should the Secretary of Transportation be required to notify the traveling public of threatened actions, such as terrorism, that may endanger their safety?

Answer:

The issue of terrorism committed against international air transportation is one of the most significant issues I expect to encounter if confirmed as Secretary. I would plan to commit all needed resources of the FAA and the Office of the Secretary to meeting this issue.

The actual issuance of travel advisories to the public has always been an area for the State Department, and I have no reason to differ with this arrangement. I understand that the FAA security office has in place a process for advising the involved carriers of threats so that appropriate action can be taken internally, whether or not a public advisory is called for.

Question 12: One of the major concerns in the aviation industry today is the growing surplus of funds in the Airport and Airway Trust Fund. Many argue that the trust fund should be taken out of the unified federal budget, freeing it to be spent as critical aviation safety needs arise. Would you advocate changing the Federal budget process, such as taking the trust fund off budget, in order to ease spending this surplus?

Answer:

This is an extremely complex issue. Fundamentally, however, the President-elect has stated, and I agree, that fees that aviation users are paying into the Trust Fund ought to be used to fund critical aviation needs.

Taking the Trust Fund off budget would not solve the basic problem in my view and would not, by itself, reduce the surplus. As the President-elect has said, "...to take us into the 1990's and beyond, we need a broad national consensus, requiring cooperation by Congress and strong support from state and local authorities, to further expand and modernize the nation's airports and our air traffic control system."

I would join President-elect Bush in his commitment to see that aviation user fees are spent for the purposes for which they were intended, consistent with addressing the deficit.

Questions #13 & 14: Last year, the Commerce Committee reported legislation that would have established the Federal Aviation Administration as an independent Federal agency. Much of the support for this legislation was based on the belief that the Secretary and Departmental staff interfered with the daily management of the FAA, hindering its ability to perform its safety functions. Do you think the FAA should remain in DOT? In your view, is the current structure of the FAA within DOT capable of adequately ensuring air safety?

Answer:

As a pilot, I have a deep appreciation for the duties and responsibilities of FAA, and I have a very high regard for the men and women who staff the agency. I am also very much aware that commercial air traffic has greatly increased over the past 10 years and will continue to do so. The scheduled aircraft miles flown, for example, in 1988 increased some 65 percent from that flown in 1978--the year the Airline Deregulation Act was passed.

While I have an open mind concerning the DOT-FAA relationship, I believe that aviation is an integral part of a national transportation system and over-arching aviation policies must be developed within that context. Day-to-day management, however, is the responsiblity of the FAA Administrator.

I also share the desires of Congress and the aviation community, including the traveling public, to maintain the safest, most up-to-date aviation system in the world. It is a system that must continue to take full account of the needs of consumers and the air transportation industry, including general aviation.

In conjunction with other Administration officials, the Congress, and the aviation community, I intend to review a wide range of proposals and options designed to enhance FAA's response to the changing requirements of our aviation system.

Whatever may develop in this area, I look forward--if confirmed--to working with you in reaching a final determination on how best to proceed.

As far as the "interference" issue is concerned, the term itself obviously has a deleterious connotation. Naturally, I will avoid micromanagement -- not only of the FAA but of all modes. However, whenever I or my staff can assist in getting the agency the budget it needs, suggest regulatory changes that will better comply with requirements and facilitate acceptance by OMB, or push for faster action on badly needed safety initiatives, I intend to exercise leadership and be decisive. In addition, there will undoubtedly be major policy areas in which the Secretary of Transportation must be the ultimate decision maker. If there is to be an effective Transportation Department which implements national transportation policy across and within all modes, the Secretary must provide the leadership and must exercise final judgment -- I intend to do so.

Question 15: Increasingly, there is a concern, whether it be nationwide or at individual airports, that the level of market dominance by the largest air carriers has become excessive. As Secretary of Transportation, what will you do to ensure the airline industry remains competitive? In your view, has there been adequate enforcement of our federal antitrust laws in the airline industry?

Answer:

If confirmed as Secretary of Transportation, I will work to preserve and foster competition in the airline industry. My principal focus will be to ensure that air carriers can enter and exit markets easily and to expand the capacity of the air traffic system. In addition, under section 411 of the Federal Aviation Act of 1958, the Department has the statutory authority to ensure that competition in the airline industry remains vigorous.

The fact that one or two air carriers "dominate" a major hub airport does not necessarily imply a lack of competition in that market. Competition in the airline industry does not depend solely on counting the number of airlines serving a market. Generally speaking, ease of entry and exit from a market will determine whether airline competition is vigorous. When entry and exit are relatively easy, actual and potential competition should compel air carriers to provide competitive fares and services. Nevertheless, I understand that the issue of monopolistic and oligopolistic pricing and practices at heavily concentrated hubs currently is being studied, and I anxiously await its results to determine whether more pro-competitive steps can be taken.

With respect to further concentration in the airline industry by means of merger or acquisitions, I expect that the Department of Justice, which now overseees the approval process, will ensure adequate antitrust compliance.

QUESTION 16: In each of the last three years, the President has proposed the termination of the Essential Air Service small community program. This program was established under the Airline Deregulation Act of 1978, and was overwhelmingly extended in 1987. In your view, should air service continue to be provided to the approximately 150 communities now served under this program, even if a Federal subsidy is needed to continue that service?

ANSWER:

The essential air service program has achieved significant public benefit by preserving access for many small communities to the national transportation system over the past ten years, and doing so with more cost-effective aircraft and services. Unfortunately, cost pressures now appear to be upward -- primarily because the commuter industry is re-equipping with larger aircraft and many pasengers are finding it more attractive to use surface transportation to alternate airports -- and subsidy burdens for the program are escalating at a time when it is critical that we exercise all available means to reduce our national budget deficit. I would also urge, however, that we now look very carefully at the comparative costs and benefits of continued subsidies for air service to individual small communities. I will, of course, assure that the program continues to be administered in accord with Congress' instructions under the law.

Question 17: The platform statement adopted at the 1988 Republican convention stated that the "federal government and local communities must work together to develop additional airport capacity of all types." What do you see as the appropriate role for the FAA in developing additional airport capacity? More specifically, what will you do to develop such capacity?

Answer:

I expect, and will insist, that the FAA continue to emphasize the three elements that, together, work to expand system airport capacity. These are: the Airport Improvement Program, which provides grants for capital improvements at airports; the Airport Capacity Task Forces, which look at specific airports to identify short-term improvements to enhance capacity; and the analysis and modification of airspace organization and procedures in the area of the busy airports to improve the flow of traffic. Of course, all of these activities are built upon an underpinning of research.

I will be looking to ensure that airport grants are used in a manner that is most effective in enhancing the airport capacity in a systems sense -- that is, that funds are directed first to those projects which overcome those bottlenecks that spread delays throughout the national aviation system. It should be recognized, however, that in many instances it is not funding that is discouraging the expansion of airport capacity but, rather, physical, political and environmental impediments to the building of additional capacity. This is where the FAA must work with local communities to overcome such barriers in a way that recognizes both national and local concerns. Of course, I expect the Department to involve state and local authorities in the full range of airport capacity enhancement activities.

Since I view the efficient functioning of the national aviation system as an essential component of the nation's transportation system, I will be personally involved in developing a national strategy that will lead to the provision of needed airport capacity.

I think you should know that I intend to review every option. For example, I am very interested in the report recently issued by the President's Base-Closing Commission, and intend to examine it carefully for potential in this area. The use of excess military air bases for civilian aviation -- or of the bases themselves for other local purposes -- is not a new idea, but it is quite possibly a good one. I intend to work both with the Department of Defense, with other government agencies, and with state and local governments in examining this idea, and in assessing its value in the overall aviation needs picture.

Question 18: Increasingly, in an effort to limit aircraft noise, communities are imposing restrictions on access to airports. President-elect Bush has said that he would "oppose unreasonable restrictions on airport access..." What would you consider to be an "unreasonable restriction"? Should the Federal government pre-empt such local restrictions?

ANSWER:

If confirmed, I would challenge local noise abatement proposals that are clearly arbitrary or discriminatory or which impose an undue burden on interstate commerce. With regard to noise, reasonable access to the nation's airports, on a fair and equitable basis, would be one of my top priorities.

This should not be read to suggest a lessening of concern about or commitment to reducing noise impact from aircraft operations. Coming from an area having the nation's busiest airport, I am particularly sensitive to community concerns from airport operations. As Secretary, I would continue to stand by our long-standing commitment, involving federal, local and private resources, to reduce the impact of aviation noise.

I believe it is largely possible to continue to decrease the population exposed to adverse levels of aviation noise without decreasing airport capacity. I would place particular emphasis in the participation by airport proprietors in the airport noise compatibility program, which encourages and supports airport proprietors--working with surrounding communities--to resolve noise problems, while maintaining the federal government role of controlling the level of noise emitted by aircraft.

Question 19: As you know, there currently is a two-year ban on smoking aboard commercial airline flights scheduled for less than 2 hours. Do you support this ban? In your view, should smoking on such flights be permanently banned?

Answer:

The Department now has a study under way which should shed considerable light on this issue. In this study, the quality of air in airliner cabins will be accurately measured for the first time. We will examine both the level of contaminants due to smoking, and the level of other pollutants which may exist within the cabin. Based on these measures, we will assess the risk to passengers and crew that these levels represent.

I would be unable to take any position on this issue until that study is completed. It is our intent to have this information and our recommendations early in 1990, well before the present 2-hour ban is scheduled to expire. The purpose of the study, supported by both Houses of Congress, is to provide a solid basis for that decision.

Question 20: The problem of global climate change is a great concern. One of the related matters the Department of Transportation is charged with administering is corporate average fuel economy, or CAFE, standards. If CAFE standards are high the nation's vehicle fleet is more fuel efficient and its contribution to CO2 emissions and global warming is reduced. Your predecessor Mr. Burnley repeatedly stated his opposition to the existence of any CAFE standards. Do you favor the continued imposition of CAFE standards by the federal government on vehicle manufacturers?

Question 21: Your predecessor recently granted petitions filed by several vehicle manufacturers to reduce passenger car CAFE standards to 26.5 miles per gallon, 1 mile per gallon below the statutory standard. In doing so, the Department placed significant emphasis on the asserted needs of the U.S. automobile industry to maintain its competitive position in the world market. Do you agree with that decision? What priority do you believe should be given to the economic position of the automobile industry in determining the level of CAFE standards? What is your view on the need for fuel efficiency to protect against global climate change? If global warming is not prevented would the profit and loss statement of industry not be rendered irrelevant by the severe alteration of the earth?

Answer:

On matters of the national economy and the world environment, there are many issues that must be considered beyond the narrow question of the CAFE standards. Your questions thus raise a number of complex issues. I expect to participate in the discussion of these issues along with the Environmental Protection Agency and the Department of Energy and other Departments and agencies. Many of the issues are international in nature. Indeed, the President-elect has called for an international conference on Global Warming and other pressing environmental issues. The President-elect has also been very supportive of efforts to develop clean alternative fuels for the automobile industry, which itself could make an important contribution to preventing global warming. I certainly support the goal of improving the fuel efficiency of the nation's automobile fleet, and understand that the manufacturers have made impressive progress in that regard.

Question 22: On at least two occasions during the last Congress the Department declined to provide congressional oversight committees with documents reflecting staff recommendations on important decisions -- vehicle rollover (requested by the House Subcommittee on Transportation, Tourism and Hazardous Materials). If you are on confirmed, what will be your position on the availability of DOT staff recommendations to congressional committees who believe such documents are necessary to the performance of their oversight function? Can Congress expect to receive the previously requested documents on the rollover and CAFE decisions if you are confirmed as Secretary?

Answer:

As Secretary, I will make every effort to cooperate with the committees of the Congress, while preserving our ability in the Executive Branch to carry out our duties and responsibilities. I believe there is a need to preserve the ability of agency officials to communicate candidly with one another in internal documents. By protecting such communications, the Department encourages differing perspectives and provides broad opportunities for exchanging viewpoints.

As regards the two specific cases, I would, if confirmed, look into them in detail.

Question 23: On April 6, 1981, then Vice-President Bush held a press conference to announce 34 DOT regulations the Reagan administration had targeted for either rescission, revision or redrafting in an effort to assist the economic position of the U.S. automobile industry. Fifteen of those regulations related to vehicle safety and the remainder dealt with emissions and fuel economy. Do you or the Bush administration have any similar plans to assist the automobile industry? If so, please list the actions that will be recommended for this purpose.

Answer:

I am not aware at this time of the President-elect's plans for continuing the work of the Regulatory Reform Task Force. It is my belief that the single most effective means to assist all sectors of our economy, including the auto industry, is to keep our economy healthy and growing.

Question 24: Do you view the economic needs of the automobile industry as inconsistent with vehicle safety initiatives or fuel economy requirements?

Answer:

I do not see a fundamental inconsistency between the economic health of the industry and the goals of safety and fuel economy.

Question 25: Do you agree with what appears to have been the Reagan Administration's view of the federal role in setting vehicle standards, i.e., limited mandatory rulemaking in favor of voluntary compromises with industry? What do you see as the primary responsibility of the DOT in administering the laws related to vehicle safety and fuel economy [the Motor Vehicle Information and Cost Savings Act and the National Traffic and Motor Vehicle Safety Act]?

Answer:

I am not prepared to comment on whether or not the Reagan Administration's view of its vehicle safety responsibilities has been to defer to "voluntary compromises." Under a Bush Administration, I can envision a situation in which, if vehicles already met an acceptable level of safety on a particular aspect of vehicle performance without being required to do so by regulation, the Department would choose to devote its resources to other issues rather than engage in rulemaking simply to affirm the existing level of safety. However, the laws relating to vehicle safety and fuel economy set forth specific rulemaking criteria. If the Department, in applying these criteria, determines that there is a need to establish, amend, or revoke a standard, it must act accordingly.

Question 26: Do you believe that either the marketplace or the self-regulation of the automobile industry can be sufficient to insure the manufacture of safe vehicles? If so, can you cite some relevant examples?

Answer:

While I would not view "self-regulation" by the auto industry as an acceptable substitute for the Federal vehicle safety regulations, I do believe we should encourage voluntary safety initiatives by automakers to supplement our efforts and to promote new safety technologies. Indeed, I am encouraged by what appears to be a heightened interest by many automakers in recent years to "sell" safety features, such as air bags and antilock brakes, which complements the growing consumer interest in highway safety issues. A combination of Federal standards and private initiatives should help to achieve the greatest gains in vehicle safety.

Question 27: Have you been involved in any litigation within the last ten years against the Department of Transportation or any division of the Department including the National Highway Traffic Safety Administration (NHTSA)? If so, please provide details of the litigation, including its caption, current status, and your personal involvement.

Answer:

To the best of my knowledge, I have never been named a party, nor have I appeared as counsel of record, in any litigation within the last ten years against the Department of Transportation or any division of the Department, including the National Highway Traffic Safety Administration.

Question 28: In defending litigation challenging its decisions to reduce CAFE standards, DOT has taken the position that the plaintiffs lack legal "standing" to challenge such a reduction. However, DOT has not suggested that automakers affected by changes in CAFE standards lack the requisite injury to provide standing to sue. The result of this position on standing, if adopted by the courts, would appear to be that automakers can challenge changes in CAFE standards but citizens concerned about energy efficiency or environmental issues cannot. Do you agree with the legal position taken by the Department? Does it lead to a logical or fair result?

Answer:

Questions of standing have a legitimate role in any litigation. To the extent that any plaintiff in a legal proceeding has failed to meet the requirements to establish standing or injury in fact, I would expect that the Department is obligated to raise the issue in defending the litigation and leave the decision to the courts. As I am not fully familiar with the facts of the cases you have cited, I am not in a position to comment on actions of the Department.

Question 29: In its first report to the President, the Commission on Merchant Marine and Defense concluded that there is a clear and growing danger to our national security due to the deteriorating condition of American's maritime industries. Please comment on this conclusion.

Answer:

First of all, let me tell you that I view America's maritime industry as a major element in any national transportation policy. And, I am very much aware of the Commission's report and its conclusion, and agree that the situation poses "a clear and growing danger to the national security in the deteriorating condition of America's maritime industries." Although no single policy or program can restore our nation's merchant marine overnight, the President's Commission found that the federal government should consider a number of specific, positive steps to assist in the overdue revitalization of the U.S. maritime industry and merchant marine.

I intend to examine the report closely and follow up on its recommendations as appropriate.

Question 30: Do you believe that a major governmental effort is required to revise our national objectives, policies, and commitment in order to reverse the decline of the maritime industry? If so, what initiatives would you propose?

Answer:

Clearly, we need to reassess the respective roles of government and industry and foster cooperation and coordination between all parties. Cooperation between Government and industry are long overdue, and coordination is essential for developing resourceful methods for building a strong maritime and industrial base.

Reversing the decline of the maritime industry must be a national objective, and I am committed to that end. However, rebuilding the maritime base will be a major task that will require a major effort, by all parties concerned.

President-elect Bush recognized the situation earlier this year and called for a number of specific actions, including establishing maritime concerns as a priority in international trade negotiations, and strict adherence to existing U.S. maritime laws.

He and I also believe we need to structure our promotional programs to encourage productivity improvement and competitiveness, and to continue to be on the alert to foreign practices that prevent our carriers and shipbuilders from competing efficiently. The bottom line is that we are committed to a comprehensive maritime policy, with the ultimate goal of restoring the United States maritime industry in the interests of economic and national security.

Question 31: Do you believe the shipbuilding and repair industry and its associated shipyard suppliers are and will continue to be an essential national mobilization resource? If so, in your opinion, is some form of government subsidy or other promotional assistance necessary for the construction of commercial, privately owned vessels?

Answer:

There is no question that shipbuilding and associated industries are essential mobilization resources.

I understand that representatives from the shipbuilding industry have recently suggested that, given an initial level of Federal support, it may be possible to achieve a competitive position down the line that would obviate the necessity for continued Federal support. I am interested in what they have to say on this issue.

Question 32: Do you believe continuation of an strict adherence to existing statutory programs to preserve cargo for U.S.-flag carriers, including the Military Cargo Preference Act of 1904, the Cargo Preference Act of 1954, and the Jones Act, are essential to our merchant fleet?

Answer:

In my view, the existing statutes to preserve cargo for U.S.-flag carriers, including the Military Cargo Preference Act of 1904, the Cargo Preference Act of 1954, and the Jones Act, are presently essential to assure the continued existence and viability of our merchant fleet. The President-elect has himself committed to a strict adherence to U.S. maritime laws, and to the preservation and integrity of the Jones Act.

Question 33: Do you agree that some form of Operating-Differential Subsidy (ODS) is essential in order for American operators to compete realistically with their foreign competitors?

Answer:

Operating costs are very critical factors in determining the economic viability of a maritime operation. Generally, U.S.-flag vessels competing in the world trades suffer cost disadvantages when compared to foreign-flag vessels, the most significant cost difference of which is in crew wages. However, since the passage of the Merchant Marine Act of 1936, the nature of the U.S. maritime industry and the foreign competition it faces have changed dramatically. The ODS program as presently structured does not appear to provide sufficient operating flexibility in a rapidly changing market, and it lacks incentives for cost efficiency that are adequate to make the U.S. fleet competitive in the world market.

Question 34: Deregulation of our domestic oceanborne trades has been under consideration within the Department of Transportation over the past few years. Please fully explain your views.

Answer:

I am only prepared to set forth tentative views at this point, but I would commit to analyze the matter in depth if confirmed.

The operating conditions of our domestic oceanborne trade are quite different. Before proceeding with any sweeping deregulatory efforts, I would need to better understand the impacts on the various areas.

As I understand the current situation, the switch to intermodal tariffs in this trade by all U.S. shipping lines (with one exception), makes them subject to ICC jurisdiction. At the same time, the ICC has effectively deregulated maximum rate regulation for intermodal traffic. Therefore, I would not expect this to be a policy priori[illegible].

Question 35: As Secretary of Transportation, you will have responsibility for the United States Coast Guard. In general, the Reagan Administration has supported funding for the Coast Guard's various missions. What funding priority will the Coast Guard receive within the Department of Transportation? Do you anticipate increasing funding for the Coast Guard in light of the demands being placed on the agency for drug enforcement and other activities?

Answer:

The Coast Guard's funding needs constitute a high priority within the overall Department of Transportation budget. Clearly, the Coast Guard plays a major role in a broad range of safety, operational, and enforcement missions, including: search and rescue, maintenance of the nation's waterway aids to navigation, national defense, and enforcement of our laws and treaties. These are all critical functions that I would continue to assure would receive priority consideration in future Departmental budgets.

As you know, the Coast Guard has, in the last several years, taken on increasing responsibilities and plays a principal role in drug interdiction. As a consequence, its budget for drug enforcement has grown significantly over the eight years of the Reagan Administration. Under the new Administration, the Coast Guard will coordinate its drug interdiction mission very closely with other government agencies, and most especially with the Office of the new cabinet-level "Drug Czar". I fully expect that the Coast Guard's drug interdiction mission -- so important not only to the Department, but also to the nation as a whole -- will continue to receive high priority.

Question 36: Congress has repeatedly rejected Reagan Administration proposals to implement Coast Guard user fees. What will your policy be with respect to user fees for Coast Guard services?

Answer:

In general, user fees and proposals for Coast Guard user fees in particular merit consideration and a dialogue with Congress. Before I advocate any such proposals, however, I would need to study the particulars in detail.

Question 37: The National Defense Authorization Act (P.L. 100-180) requires the Coast Guard to meet ninety-five percent of its wartime mobilization requirements by 1998. On December 20, 1988, Secretary Burnley submitted a plan indicating how the Coast Guard will meet the requirement. Do you support the implementation of this plan?

Answer:

While I cannot commit to specific levels and timetables, I very much recognize and am committed to the importance of a build-up of Coast Guard's Selective Reserve in support of its mission under wartime mobilization requirements. I expect to report to you in more detail on this in the future.

Question 38: The Coast Guard cutters Westwind and Northwind have recently been decommissioned leaving our icebreaker fleet with 2 vessels, the Polar Sea and the Polar Star. The Reagan Administration's fiscal year 1990 budget includes funds to purchase a new icebreaker. What will be your policy regarding the acquisition of Coast Guard icebreakers?

Answer:

The Reagan budget requests funds to initiate acquisition of a new polar icebreaker to offset the Nation's icebreaking capability lost with the decommissioning of the two World War II-vintage icebreakers: Northwind and Westwind. The proposed icebreaker would be expected to be operational in 1995. I understand the need to address the question of a second replacement icebreaker as soon as possible.

U.S. Department of Transportation
Office of the Secretary of Transportation

400 Seventh St. S.W.
Washington D.C. 20590

January 30, 1989

Honorable Ernest F. Hollings
Chairman
Committee on Commerce, Science,
and Transportation
254 Russell Senate Office Building
Washington, DC 20510-6125

Dear Senator Hollings:

Please find enclosed my responses to the follow-up questions of the Commerce Committee. Several additional questions were received this morning from Senator Kerry. The answers to those questions will hopefully be submitted tomorrow.

Sincerely yours,

Samuel K. Skinner
Secretary-Designate

Enclosures

SENATE COMMERCE COMMITTEE

(COMMITTEE #1)

Question #1: What are your views on the need for enactment of legislation clarifying the Department of Transportation's authority in the area of drug and alcohol testing for safety-sensitive transportation workers?

Answer:

The previous administration was confident that existing statutory safety mandates, such as the Federal Aviation Act of 1958 and the Federal Railroad Safety Act of 1970, provide full authority for the Departmental rules on drug and alcohol testing. Until court challenges to the existing rules are resolved, it may be prudent to postpone further legislative initiatives.

(COMMITTEE #2)

Question #2: The number of incidents involving aging aircraft has significantly increased in recent weeks, raising public concerns about airline maintenance and safety. Additionally, we continue to have concerns about staffing and experience levels of FAA personnel. Mr. Skinner, if confirmed as Secretary, what air safety initiatives will you undertake in your first 90 days?

Answer:

The issue of aging aircraft will continue to merit priority attention during the coming years. Although many of the recent incidents that have received public attention are not attributable to the age of the aircraft, increasing scrutiny will be required as aircraft remain in our fleet for additional service. I will look to the FAA to take the lead, working with the airlines and the manufacturers, to enhance inspection, maintenance, and, where warranted, replacement programs for certain aircraft components. I do not believe we have any evidence to date that would support the mandatory retirement of aging aircraft.

FAA must be permitted to hire sufficient numbers of air traffic controllers, security specialists, airline inspectors, and maintenance technicians to ensure that aviation safety is not only maintained but enhanced. The Department will press very hard for full and adequate staffing in all these areas, and we will have to plan carefully so as to be able to address our near- and medium-term requirements. We will especially want to work very hard to retain the capable people already serving in the Department. In this regard, I will work closely with the Congress this spring during the FY 90 Budget process and look for your continued strong support with respect to our requests for FAA personnel for safety- and security-related positions.

Continued improvement in our already excellent aviation safety record ultimately depends on the performance of the human being--in air traffic control, in the cockpit, and on the maintenance line. I am especially concerned about pilot performance because of the human errors associated with many of the recent commercial aviation accidents. As the average level of pilot experience drops and cockpits and aircraft become more and more sophisticated, improvements in pilot training, checking, testing, and certification will become increasingly important: I might also add that these human and performance issues are not confined to the aviation mode but are of concern in the marine and surface environment as well.

(COMMITTEE #3)

Question #3: While supporting efforts to expand airport capacity at the major hub airports, may on this Committee remain concerned about needed discretionary funds for airport development in small and medium-sized communities. What are your views on how Federal airport development funds should be allocated?

Answer:

The objective in administering the Airpoirt Improvement Program (AIP) is to achieve a balance among competing airports and projects within the constraints of legislated funding limits. I believe that we ought to review the allocation of these funds to be sure that we are getting the most effective use of them in terms of improvements to system capacity and safety, including needed development in small and medium-sized communities.

(COMMITTEE #4)

Question #4: It is my understanding that the FAA has prepared a draft regulation that would allow airlines to preclude blind air passengers from being seated in the exit row of commercial aircraft. Given the fact that Congress enacted legislation in 1986 prohibiting discrimination against handicapped air passengers, what are your views on this type of exclusion?

Answer:

The Air Carrier Access Act of 1986 prohibits discrimination on the basis of handicap. The act also requires that any measures taken to eliminate such discrimination shall not derogate the safety of other passengers.

The exit row seating issue was discussed extensively during regulatory negotiating sessions concerning the Air Carrier Access Act rulemaking and resulted in an impasse. Thus, the Department proposed in its NPRM to implement the Act, that airlines would be prohibited from restricting the seating of passengers on the basis of disability, except in order to comply with an FAA safety rule.

In the view of the airline industry and the FAA, there is a strong safety rationale for not allowing anyone to occupy seats adjacent to emergency exits who cannot perform certain functions associated with an emergency evacuation. This would apply to persons with disabilities, the elderly-frail, the very obese, and others. Their concern is that such persons could slow an emergency evacuation, in which every second is vital to the escape and survival of passengers. It is expected that the FAA proposed rule will address these issues.

I have not yet seen this draft regulation, and can take no position on it until I have.

(COMMITTEE #5)

Question #5: Over the past several years foreign ownership and control of airlines and their assets has increased significantly. A subsidiary of Japan Airlines plans to purchase up to 20% of Hawaiian Airlines. An Australian corporation holds 20% of America West. A consortium of foreign airlines owns 39% of Covia, United Airlines Computer Reservation System. And there are numerous airlines whose aircraft are owned by foreign corporations. What are your views on this growing trend toward foreign ownership and control of a vital segment of the U.S. transportation system?

Answer:

I understand that the Federal Aviation Act already contains safeguards to prevent unwarranted foreign ownership of U.S. carriers. The Act requires that any U.S. air carrier be both 75% owned and entirely controlled by citizens of the United States. Thus, I am told that even where the numerical requirement regarding stock ownership is met, the Department examines a prospective owner carefully to ensure that no foreign entity will be in a position to exert control over a U.S. air carrier. I intend to continue to enforce the Act's requirements vigorously. We have and will maintain a strong, independent system of United States air carriers, free of foreign control or undue influence.

(COMMITTEE #6)

Question #6: The terrorist bombing of Pan Am flight 103 over Scotland last month highlighted the critical need to improve airport security. It also seems to indicate the need for a revised policy emphasizing an increasing trend of violence against U.S. air carriers and U.S. passengers. Are you satisfied with our current air security efforts? In your view, should we re-evaluate and expand the role of the Federal government to ensure air passenger security?

Answer:

The Department is moving aggressively to counteract the higher threat levels against U.S. air carriers and passengers. A week after the flight 103 tragedy, FAA imposed additional security requirements on U.S. carrier operations at Western Europe and Middle East airports. Administrator McArtor wrote to his civil aviation counterparts in other countries encouraging them to also upgrade their security provisions.

On January 24, the United States and the United Kingdom jointly called for a special Session of the Council of the International Civil Aviation Organization (ICAO) to improve international security procedures. We urged that representation be at the Ministerial level, and I stand ready to attend for the United States, subject to my Senate confirmation. Aviation security is an international problem and we will be seeking strengthened international standards and cooperation to deal with this critical issue.

(COMMITTEE #7)

Question #7: Once again in FY 1990 Coast Guard budget, the Reagan Administration has proposed a series of user fees. In past years, Congress opposed these administration-sponsored user fee proposals because they were unfair. The current proposal would have owners of all documented, numbered, or titled boats pay a $25 fee for Coast Guard services whether they use a service or not. This seems more like a tax increase than a user fee. Do you agree? What will be your policy with respect to user fees for Coast Guard services?

Answer:

As I said in my testimony, I am a team player and I fully support the President's pledge that there will be no new taxes. However, there is a distinction between a new tax and a user fee assessed on an identifiable segment of the population receiving a specific service from the Federal Government. I also testified that the Coast Guard must be supported at all levels, both financially and within the Administration. The budget is a problem this year and it is on the top of my list. The Coast Guard user fee proposal is one I will be looking at, in the overall context of Coast Guard's budget.

(COMMITTEE #8)

Question #8: Do you have any views as to the relative roles of the Federal and State governments in the area of hazardous materials transportation? To what extent might Federal preemption be included in any DOT proposals?

Answer:

An essential component of an effective national transportation policy is a safety strategy which allows state and local governments the maximum freedom to address the safety problems in their jurisdictions. The Federal government's role should be to regulate those transportation issues which are national in scope so that the free flow of interstate commerce is not unreasonably impeded. These precepts are particularly relevant to hazardous materials transportation because of the inherent risks these materials present, and the need to assure that effective controls are in place to manage those risks.

To these ends, the Department plans to resubmit to the Congress a broad set of legislative proposals to amend and improve the Hazardous Materials Transportation Act, particularly in the area of better defining the roles of all levels of government. However, until I am confirmed and have an opportunity to review various policy proposals, it would be prudent not to comment further.

(COMMITTEE #9)

Question #9: My office has received a number of calls from individuals interested in making transportation more accessible for the handicapped. Would you please comment on your views and the Federal policies you might seek to implement in this area, particularly insofar as transit is concerned? What are your views on access to mainline transportation service?

Answer:
The Department in 1986 issued its latest regulation covering handicapped accessibility requirements for recipients of Federal transit funds. That regulation does not mandate accessible mainline transit systems but allows transit operators the discretion to select the mode of service delivery deemed most appropriate for local needs. The regulation thus permits transit operators to select from a variety of program options, including the use of accessible, fixed-route buses operating on either a scheduled or on-call basis, a "special service" system typically comprised of vans or other small, accessible vehicles providing on-call, fixed-route service and special services. The regulation also has a defined limit on the costs a recipient must spend on its handicapped program and establishes a set of six minimum criteria for the required program of services for the handicapped.

In addition, UMTA makes available some $35 million a year under its section 16(b)(2) program, which assists private nonprofit entities in providing transportation services meeting the special needs of elderly and handicapped persons.

I have found at the local level in Chicago that these are good and workable programs. I particularly like the local flexibility provided under the Department's accessibility regulation, since it allows a mix of mainline as well as special services for the handicapped. I will be taking a careful look at this issue, however, upon confirmation.

(INOUYE #1)

QUESTION #1: What is the status of the bilateral aviation negotiations between the United States and Japan? What will you do to ensure the successful completion of these negotiations?

Answer:

It is always difficult to predict whether progress will be made with Japan or any other sovereign nation in the area of aviation negotiations. I would like to say, however, that my position is that the United States has the right to compete vigorously in the world on an equal basis, and I am going to be a strong advocate that we get treated fairly in the world market. This includes Japan, Eastern Europe, and South America.

(INOUYE #2)

QUESTION #2: The Department of Transportation is currently studying aircraft cabin air quality, examining both the level of contaminants due to smoking, and the level of other pollutants which may exist within the cabin. When will the study be completed? Do you feel that the study will provide a comprehensive and conclusive investigation of non-smoking contaminants in the aircraft cabin? If justified by research data, would you support mandatory standards for cabin air quality with respect to acceptable levels of ventilation, carbon dioxide, ozone, microbial aerosols, and cosmic radiation?

Answer:

The study will be completed by early 1990. I understand it is designed to provide a comprehensive picture of cabin air quality, and the work is being monitored by a review panel of government experts in air quality and public health questions.

I would be unable to take a position on this until the study is completed and we have an opportunity to evaluate the research findings. Mandatory standards for air quality represent one possible solution, but other policy approaches may also be feasible.

(FORD #1, #2)

QUESTION #1: In view of the virtual unanimity of agreement about the need for major structural changes at the FAA and the urgency about this nation's inadequate aviation infrastructure, don't you agree that greater leadership must be demonstrated by the Bush Administration in solving our aviation problems? Would you agree that FAA reform legislation should be given high priority? How soon could we expect legislative recommendations from you?

QUESTION #2: In recent years, increasing frustration has been expressed by FAA employees and virtually everyone who has an interest in aviation about the inability of the Agency to do its job effectively because of bureaucratic wranging and micromanagement by the DOT staff over FAA. What steps do you think are necessary to correct this problem?

Answer:

As a pilot, I have a deep appreciation for the duties and responsibilities of FAA, and I have a very high regard for the men and women who staff the agency. I am also very much aware that commercial air traffic has greatly increased over the past 10 years and will continue to do so. The scheduled aircraft miles flown, for example, in 1988 increased some 65 percent from that flown in 1978--the year the Airline Deregulation Act was passed.

While I have an open mind concerning the DOT-FAA relationship, I believe that aviation is an integral part of a national transportation system and over-arching aviation policies must be developed within that context. Day-to-day management, however, is the responsiblity of the FAA Administrator.

I also share the desires of Congress and the aviation community, including the traveling public, to maintain the safest, most up-to-date aviation system in the world. It is a system that must continue to take full account of the needs of consumers and the air transportation industry, including general aviation.

In conjunction with other Administration officials, the Congress, and the aviation community, I intend to review a wide range of proposals and options designed to enhance FAA's response to the changing requirements of our aviation system.

Whatever may develop in this area, I look forward--if confirmed--to working with you in reaching a final determination on how best to proceed. I do not now have a schedule for legislative action.

(FORD #3)

QUESTION #3: There has been a lot of bickering in recent years over the size of the Aviation Trust Fund surplus, who is at fault for its sitting idle and the best way to assure that transportation tax revenues are applied to system needs. What specifically will you recommend to break the log jam on this issue? Can we expect any serious budget reform recommendations which recognize past failures in the trust fund process and attempts to correct them for the future?

ANSWER:

As I have indicated, fees that aviation users are paying into the Trust Fund should be used to fund critical aviation needs. I would like to work with Congress to ensure this happens.

(FORD #4)

QUESTION #4: By now you have undoubtedly heard and read a lot about various other proposals to respond to the structural deficiencies at the FAA -- including the procurement and personnel problems. What do you think about the approach in S. 1600 to begin dealing with some of these problems? Are you willing to submit specific, detailed legislative proposals for correcting obvious procurement and personnel problems that inhibit the FAA from being more responsive to our nation's safety and capacity needs?

Answer:

I intend to approach this subject with an open mind. I would like to spend additional time evaluating current arguments both in support and oposition to that legislation. This review would, of course, occur in the context of other proposals for FAA restructruring and larger issues of national transportation policy.

As you know, enhanced safety and improvements to the air traffic control system will both be high priorities of mine, and any organizational change to FAA would also have to be viewed with those objectives in mind.

I look forward to working with you, fellow Senators, Congressmen, and other interested parties to arrive at optimum solutions to the challenges currently facing the FAA.

(FORD #5)

QUESTION #5: It frequently seems that everyone but OMB can agree on what is necessary in the way of adequate levels of aviation safety and capacity spending. What would you recommend to address this perpetual problem?

Answer:

President Bush has stated, and I agree, that fees that aviation users are paying into the Trust Fund ought to be used to fund critical aviation needs. I am convinced that the newly confirmed OMB Director Richard Darman supports this aspect of the president's philosophy as I do.

As the President has said, "...to take us into the 1990's and beyond, we need a broad national consensus, requiring cooperation by Congress and strong support from state and local authorities, to further expand and modernize the nation's airports and our air traffic control system." I join the President in his commitment to see that aviation user fees are spent for the purposes for which they were intended, consistent with addressing the deficit.

(FORD #6)

QUESTION #6: In the Airport and Airway Reauthorization legislation the Department was directed to undertake a study of long-term airport capacity needs and to develop an overall airport system development plan. What is the status of that plan? Will it take into consideration surplus military installations and high priority airport capacity R&D efforts that could prove beneficial in dealing with airport capacity problems?

ANSWER:

The FAA has completed an initial analysis of long-term airport system requirements, and a preliminary report was transmitted to Congress in January, 1989. The final report, due in January, 1990, will consider the range of measures that could increase airport system capacity, including civil use of military airfields and the application of new or improved technology. I am looking forward to seeing it.

(FORD #7)

QUESTION #7: How would you propose to address the current airport congestion problem and, at the same time, develop a national airport infrastructure capable of meeting the needs of all air travelers?

ANSWER:

Airport capacity is a major constraint on air commerce growth. The problem is expected to become more severe as demand for air transportation grows and airport proprietors, reacting to local pressures to control aircraft noise, impose new or more stringent restrictions on aircraft operations.

The problem might best be addressed through development of a comprehensive airport capacity/access policy. Such a policy would focus on ensuring full utilization of existing airport capacity, construction of additional capacity, and safeguarding the environment.

(FORD #8)

QUESTION #8: What is the status of the Department of Transportation's study on the smoking ban on airline flights of less than two hours and do you have a position on the proposal to make the smoking ban on flights of less than two hours permanent?

Answer:

I am informed that the Department's study of airliner cabin air quality is underway. The work is being performed by a contractor with expertise and experience in indoor air quality questions.

I would be unable to take any position on this issue until that study is completed. It is DOT's intent to have the study completed and recommendations prepared early in 1990, well before the present 2-hour ban is scheduled to expire. The purpose of the study, supported by both Houses of Congress, is to provide a solid basis for the decision of whether to renew or extend the ban.

(EXON #1)

QUESTION #1: During the last Congress, several car rental companies had a legislative proposal that would restrict the ability of airports to charge access fees to off-airport companies. The Commerce Committee did not act on the proposal for several reasons, including that it was a matter of state and local concern. However, DOT was charged with doing a study of the issue which is scheduled to be completed soon. It was brought to the attention of the committee that at one time you were on a retainer by Alamo Car Rental (one of the companies advocating the federal law) to lobby Illinois state elected officials on legislation dealing with car rental companies.

Will this previous employment in any way influence your views on the issue now being studied by DOT? What is your personal feeling on the issue of whether the federal government should make laws limiting the ability of airports to charge access fees to businesses which use the airport?

Answer:

Because of my past involvement with Alamo Car Rental, I will recuse myself from any Departmental recommendation as to whether the Congress should enact a law limiting the ability of airports to charge access fees to off-airport businesses. I will also not influence the Department's forthcoming report on this issue.

For this reason, I will not express a view on whether the Congress should enact legislation that would limit the ability of airports to charge access fees to businesses that use airports.

(EXON #2)

Question #2: Various interstate transportation businesses have obtained, or are seeking, federal laws that limit the ways states can tax them. Railroads currently are covered by an extensive federal anti-state-tax discrimination statute (49 USC 11503), which is now the basis of a lawsuit in Nebraska to strike down certain property taxes on railroads. Interstate trucking (49 USC 11503a) and airlines (49 USC 1513) currently have more limited federal protective statutes on state tax powers which they would like to see made broader like the railroads' statute. Pipellines, barges, and telecommunications companies have no federal law limiting state taes on them, but are interested in also having one.

To what extent, if any, do you think there is a need for federal statutory laws which put limits on the way states can tax these various transportation and other interstate businesses? To what extent should there be a uniformity of treatment of various interstate businesses on this issue?

Answer:

I have not formed a view as to whether there is a need for a federal law that puts limits on the way states tax interstate businesses. However, I believe in the concept of competitive equity, and I would generally oppose any state tax that unfairly disadvantages one transportation mode or favors another, or that arbitrarily discriminates between interstate and intrastate transportation. I hasten to add, however, that I also believe in Federalism, and thus I would not advocate federal intrusion in state regulatory or taxing practices without strong evidence that such practices are having an adverse effect on interstate commerce.

Any policy decision this Administration might make with regard to whether a change in federal law is needed to ensure that states are not unfairly taxing interstate businesses will be reviewed and analyzed by the relevant federal agencies, including the Department of Transportation.

(EXON #3)

QUESTION #3: Proposals have been made to Congress to give states more authority to enforce federal railroad safety laws and retain fines levied under those laws to pay for state railroad safety enforcement costs. What role, if any, do you believe state enforcement agencies have the authority to enforce federal railroad safety laws and/or retain fines levied thereunder, particularly those governing hazardous materials, as an additional means to insure that these laws are enforced?

Answer:

I believe state enforcement agencies should continue to play the role envisaged for them by Congress when it enacted the Federal Railroad Safety Act of 1970. In that statute, Congress explicitly recognized the need for nationally uniform railroad safety regulation and enforcement. State rules on the same subject as those issued by FRA were preempted, and the ability of the states to regulate railroad safety was sharply circumscribed. However, states were afforded the opportunity to participate in the federal safety inspection and enforcement effort through the State Participation Program, and 32 now do so.

That cooperative program for rail safety enforcement has now served us well for many years. State inspectors are now qualified to enforce the full range of regulations issued under both the 1970 Act and the older rail safety laws; and their reports of violations are accorded full parity with those of FRA inspectors in our enforcement process. Should FRA fail to act on a state report within prescribed time periods, a state may take the matter to federal district court.

I would have to fully review proposals to permit independent state enforcement within a national transportation system before taking a position.

(EXON #4)

QUESTION #4: It is my understanding that the Federal Railroad Administration (FRA) uses most of its budgeted research and development funds for equipment and track research. While these areas are important, concern has been expressed that there have been no specifically funded research projects on grade crossing safety at FRA in recent years. There are a very large number of deaths each year at railroad grade crossing.

What do you think should be the criteria or standards used to determine priorities for the limited research funds of FRA?

Answer:

I am told that the bulk of recent research efforts regarding rail-highway crossings has been sponsored by the Federal Highway Administration, but that the FRA and FHWA work closely together in both project monitoring and in the dissemination of findings.

I believe systematic criteria for railroad R&D would be extremely beneficial and would contribute to stretching limited funding. If confirmed, I would seek to evaluate existing criteria and update them as necessary.

(EXON #5)

QUESTION #5: In the last Congress, this Committee approved, and the Congress passed, the 1987 Railroad Safety Improvement Act. One of the many items in the bill was the addition of federal standards for locomotive engineers. This is the first time there has ever been a government minimum standard for persons operating locomotives, even though minimum standards and licenses for automobile drivers, pilots, and just about every other area of transportation has had similar requirements for many years.

In the railroad area, do you see a need to expand federal minimum qualification and training standards to any other types of railroad workers, such as freight car inspectors?

Answer:

I am told by officials of the Federal Railroad Administration that field safety enforcement activities over the past several years established the need for a national minimum standard on engineer training and qualifications . FRA supported legislation addressing that issue, and the proposed rules will be announced shortly. I have also been informed, however, that FRA has not seen similar evidence supporting the need for national standards in other operating disciplines. However, FRA is currently compiling the data from an 18-month national assessment of dispatching practices, and the issue of training standards for dispatchers is one of the primary issues that will be evaluated against the data produced in that study.

At this point, I have not had enough personal exposure to the safety enforcement data to form an independent opinion on this question. However, I will be sensitive to it and examine the data with this issue in mind.

(EXON #6)

Question #6: Passenger transportation alternatives in rural America have been declining. It seems that much of our effort here in Congress is simply trying to stop things from getting worse, let alone improve the transportation options in rural areas. For example, airline deregulation, while it has had many benefits, has resulted in poorer service to rural areas, even with the Essential Air Service program as a safety net. Rural bus service has declined since the 1982 Bus Deregulation Act. Amtrak is still running, though it must try to survive annual budget battles to stay alive. Local public transit often exists at a bare substance level, if at all.

Do you believe like I do that more needs to be done to improve rural transportation? Do you plan to make any recommendations to Congress or undertake any other initiatives to help improve rural transportation?

Answer:

It is clear that rural communities face major transportation needs both in the short and long term. However, before we can find ways to solve rural transportation problems and meet their needs, we must develop a long-range national transportation policy that fully identifies all transportation needs, both rural and urban that face the country. After such a plan has been developed, we can begin to devise initiatives to improve rural transportation.

(EXON #7)

QUESTION #7: Former Secretary Burnley published at the end of last year a set of proposed rules that would help provide more clear standards for the "truck access: issue, that is what roads may be used by the larger 48 foot by 102 inch vehicles approved for use on federal highways in the 1982 Surface Transportation Act.

Will it be your intention to follow through on these proposed truck access rules and see to it that the matter is handled in a timely way and the rules are finalized as soon as possible?

Answer:

I am aware of the Congressional interest in seeing that promised increases in trucking productivity are provided nationally, while maintaining highway safety and, if confirmed, I am committed to moving expeditiously.

I understand DOT has just issued a rulemaking proposal, but that Congress directed the Department to refrain from issuing a final rule until it evaluates and gives consideration to a Congressionally mandated study by the Transportation Research Board due in July 1989.

I will give the resolution of this issue a high priority.

(EXON #8)

Question #8: There has been a great deal of concern about situations where major hub airports have become dominated by one or a few airlines as a result of mergers and the inability, as a practical matter, for new entrants to get established at the hub. This is made worse at airports which have maximum landing slots limitations imposed by DOT, which include Washington National and New York LaGuardia. For example, at Washington Nation, as a result of mergers, only 2 airlines now own a majority of the landing slots. A good example of what happens is provided by Omaha, Nebraska, which cannot get nonstop flights to Washington National or New York LaGuardia, even though there is an airline willing to do so, simply because there are no slots available under this government enforced monopoly situation.

Will you support as Secretary of Transportation a way to break this monopoly situation at slot-controlled airports by supporting a more fair allocation of landing slots?

Answer:

I will be looking at the question of the allocation of slots at the high density airports. However, this can be a situation where any gain by one carrier or community is a loss to another carrier or community. Clearly, a superior solution is to increase the capacity of the system to meet the need for service which the public demands, and I intend to devote a great deal of attention to that issue as well as getting the most effective use of the capacity we have.

(EXON #9)

QUESTION #9: There has been a longstanding issue between the State of Nebraska and the Federal Highway Administration regarding the "grandfather rights" of the State of Nebraska to set maximum truck weights on its interstate highway system at 95,000 pounds, versus 80,000 pounds. During 12 of the past 16 years, Nebraska operated under the 95,000 pound interpretation, but it is presently restricted by FHWA interpretation to 80,000 pounds.

As this has been an issue that has seemed to fluctuate based on individual interpretations, what is or will be your interpretation as Secretary of Transportation on Nebraska's rights to determine whether it has the right under the grandfather clause of the Interstate and Defense Highway Act to issue special permits to exceed 80,000 pounds?

Answer:

I am told the State of Nebraska brought suit in the U.S. District Court seeking a determination of this question. On December 28, 1987, the Court issued an Order granting the federal government's Motion for Summary Judgement. It appears that it may be a settled issue.

With respect to the issue of grandfather rights and special permits in general, I understand that the Transportation Research Board has been directed by the Congress to study these issues and report its findings to Congress in 1989.

(EXON #10)

QUESTION #10: What is the reason for the apparent delay by NHTSA in getting the Truth in Mileage Act implemented and what can be done to speed things up?

ANSWER:

My understanding is that the Department issued a final rule in August 1988 to implement the 1986 Act. This regulation provides guidance to the states on their obligations under the law. The 1986 Act provides that a state needing more time to revise its law may request additional time to do so. As your question notes, four states have been granted such extensions. I share your concern that the problem of odometer fraud must be dealt with promptly and effectively, and I believe we must allow the states time to adopt effective programs. Please be assured that I will review this matter upon being confirmed.

(EXON #11)

Question #11: It is my understanding that the Chicago Transit Authority was one of the first transportation agencies to conduct alcohol and drug testing of employees. Since the CTA has some experience in the area, please describe how its alcohol and drug testing works, e.g., what are sanctions for positive tests, what types of events triggers a test, are certified laboratories used, are both blood and urine tests performed, and does the testing include random testing? What are your views on random drug testing for transportation employees?

ANSWER:

The CTA has been conducting drug and alcohol testing of its employees since 1976. A positive test results in the immediate removal of an employee from any safety sensitive position. Once removed from the position, the employee may not return to that position for 1-3 years. Employees must earn the right to be placed once again in a safety sensitive position by the approval of a labor-management review committee. The employee must show this committee that he has had no chemicals for at least one year, that he has actively participated in the CTA's employee assistance program, that he has not been sick more than 4 times for more than a total of 10 days in the past year and that he has not been suspended or AWOL in the past year. The CTA testing program is triggered by accident, incident, or observation, and the CTA also conducts periodic testing (approximately once per year) and preemployment testing. The CTA uses the laboratories of Smith Kline which are certified under NITA and HHS standards. Both blood and urine tests are performed. The CTA program does not include random testing.

Like President Bush, I strongly support mandatory random drug testing of employees who hold safety-related positions in this industry. I also agree with him that the constitutional safeguards in this area must be honored, and that the individual's privacy and dignity must be upheld.

As it is, the courts are addressing virtually every aspect of the Department of Transportation rules. The Department is awaiting these rulings and will of course adhere to the outcomes.

If confirmed, I would ensure that the Department works with the Justice Departments and other involved federal agencies, the new "Drug Czar", as well as with the Congress and the industry, including employee representatives, in implementing the anti-drug rules.

(EXON #12)

QUESTION 12: While you were Chairman of the Chicago Transit Authority board, to what extent was labor involved in making decisions affecting safety of passengers and employees?

ANSWER:

Let me note for the record that I was Chairman of the Regional Transportation Authority, and that the Chicago Transit Authority was one of the operating elements under our jurisdiction. I can tell you that at the Chicago Transit Authority there is a on-going dialogue between management and labor on a broad array of topics. Of primary concern to both, however, is the area of safety. The CTA's drug testing program, for example, is part of an anti-drug and rehabilitation program that is the result of cooperative efforts between CTA management and its unions.

The CTA also has an Ad Hoc Labor-Management Committee, which deals specifically with safety issues. The Committee includes both labor and management and convenes whenever an issue of safety is raised. The scope of the Committee includes developing recommended solutions to unsafe situations in the system, as well as developing appropriate motivations for employees' safety goals.

(EXON #13)

QUESTION #13: There has been concern expressed that in the areas of occupational health and safety in the railroad industy, there appears to be confusion as to whether OSHA or FRA has jurisdiction. Areas cited include noise, sanitation, fumes, and smoke, where the overlapping jurisdiction of the agencies is not clear. Could you describe how you will coordinate these two agencies, one of which will be under your direct authority, and how this situation might be clarified or improved?

Answer:

I understand that FRA issued a Policy Statement to clarify the areas of jurisdiction between FRA and OSHA in the railroad industry in 1978. The Policy Statement recognizes OSHA's expertise and jurisdiction in areas outside of traditional railroad operation.

With respect to the specific matters you mention, I believe FRA has regulations in place for the enforcement of EPA standards for noise emitted by railroad equipment. Under the Hours of Service Act, FRA has an obligation to ensure that employee sleeping quarters are clean, safe, and sanitary. Any FRA regularly investigates concerns expressed about fumes and smoke incident to railroad operations. Any of those concerns would be the proper concern of OSHA if arising within a rail car shop.

If, despite these efforts to clarify the repective jurisdictions of the two agencies, confusion remains, I would have FRA consult directly with OSHA on how best to address the problem.

(EXON #14)

QUESTION #14: Concern has been expressed by representatives of rail labor that the FRA has been overly lenient with railroads when it comes to enforcing safety rules. These concerns include that a very low percentage of defects discovered by FRA inspections result in fines. How do you believe that violations of railroad safety rules discovered by FRA inspectors should be handled?

Answer:

Speaking as a former prosecutor, I believe firmly that violations of the rail safety regulations should be handled in the way that best serves the cause of rail safety. This may mean that implementation of the safety laws depends on the effective exercise of discretion in assessing penalties. Any prosecutorial authority must have discretion to choose which candidates for enforcement actually warrant penalties. However, I understand this to be an issue of the utmost significance, and I would give it further attention if confirmed.

(EXON #15)

QUESTION #15: (A) Concern has been expressed to Congress that there are no specific federal requirements for training of railroad workers involved with hazardous materials. Do you believe there is a need for federal training requirements in this area?

(B) Present DOT regulations for jumbo tank cars requiring thermal insulation, headshields, and shelf couplers do not cover all tank cars which carry potential explosives such as LPG gas. Do you believe that the federal regulations should be extended to all tank cars which carry such hazardous materials, regardless of size?

(C) The committee has been told some nuclear waste containers have been shown in fire tests to emit radiation. Should new federal safety standards be made to apply to such containers?

(D) In a hazardous materials accident in July, 1986, at Miamisburg, Ohio, tank cars loaded with caustic acids were positioned next to each other, which I understand is allowed under current federal regulations. 30,000 persons were evacuated and over 500 treated for various complaints. Should there be federal regulations that regulate or prohibit the positioning of tank cars with dangerous materials next to each other?

(E) The report of the National Transportation Safety Board (NTSB) of the Miamisburg accident (above) on pages 43-46 noted that the Association of American Railroads (ARA) and the tank car owners have been delegated the responsibility for setting most of the safety standards of tank cars. The NTSA was critical of the FRA for not requiring the AAR to report deficiencies.
Do you think that the present arrangement should be maintained of allowing the AAR and the Tank Car Committee to do the degree of self regulation now done in this area? Or would you recommend any changes?

(F) Concern has been expressed that there are no federal rules which require tank cars carrying hazardous materials to be taken out of service after a certain numbers of years of use. Would you recommend any changes in this area?

Answer:

I am told that there are Federal regulations concerning the training of railroad employees handling hazardous materials (49 CFR 174.7). Section 174.7 requires rail carriers to instruct

(EXON #15 continued)

their employees on each applicable requirement of the Hazardous Materials Regulations (HMR). In addition, the Research & Special Programs Administration (RSPA) in conjunction with each modal administration within DOT, is proposing in Docket HM-126F (Hazardous Materials Training) to expand the training requirements for shippers and carriers (all modes) engaged in hazardous materials transportation. Apparently, this docket is to be published as a Notice of Proposed Rulemaking (NPRM) in the near future.

I have been informed that the Federal Railroad Administration (FRA) and RSPA are drafting rulemaking which would require similar systems on all tank cars transporting flammable gases and liquids, nonflammable gases, poison by inhalation materials and other materials with unique hazards.

The cask standards used for nuclear waste shipments are established by the Nuclear Regulatory Commission (NRC). These standards are adopted by DOT under the HMR. FRA tells me that is not aware of flaws with the cask containers approved by NRC for the rail shipment of spent nuclear fuel. If fire tests reveals a release of radiation, I would agree that NRC safety standards should be improved.

I am told that regulations already prohibit placement of the most dangerous materials next to each other. However, if additional measures are needed, I am open to recommendations.

I am informed that, although the committee is utilized as a principal advisor to the Department on standards, it has no policymaking authority. All standards are drafted by the Department, after consultation with the committee and others interested in the issue. The committee does, however, have substantial authority to assure implementation of the standards by reviewing proposals for construction or modification of tank cars. That relationship, created under express statutory authorization, has been in existence for approximately half century, having been originated by the Interstate Commerce Commission prior to the Department's creation in 1967.

After the discovery of several thousand GATX tank cars constructed in a manner deviating from standard, the FRA and RSPA Administrators ordered a complete reassessment of the Department's relationship with the Tank Car Committee. That assessment has been completed, and a report on the assessment is in final draft stage. I understand it will be ready for release in the relatively near future, and I intend to review it and utilize its findings as a basis for reevaluating the relationship between the Department and the Tank Car Committee.

(EXON #15 continued)

There is a Federal regulation on the age of freight equipment, including tank cars (49 CFR 215.203 (a)(1). This regulation restricts the operation of any railroad freight car that is more than 50 years of age. A similar requirement, promulgated by the Association of American Railroads, restricts the interchange of freight equipment over 40 years of age. In addition, 49 CFR 173.31 (c) requires each tank car to be periodically retested and qualified for reuse. Any tank car failing to pass this hydrostatic test may not be used for hazardous materials service until proper repairs have been made.

It should be noted that the HMR's require each tank car to meet the minimum design requirements (including shell thickness) regardless of age.

FRA and RSPA are considering relevant changes to the regulations based on comments received from Dockets HM-201 and HM-201B (52 FR 46510, December 8, 1987).

(EXON #16)

QUESTION #16: Proposals have been made to Congress to allow railroad workers to have standing to sue in safety matters if the FRA fails to enforce a federal safety law. Do you have a view on this issue?

ANSWER:

In 1980, Congress enacted a resolution of the issue of railroad employees' standing to sue to enforce the railroad safety laws. If further action is proposed, I would have to review all relevant information before taking a position.

(EXON #17)

QUESTION #17: The FY 1990 budget proposal to Congress by the Reagan Administration proposed, as it had previously, that the Interstate Commerce Commission be sunsetted. Trucking would be further deregulated and functions involving railroads under the Staggers Act would be transferred to DOT. What are your views on this proposal?

Answer:

Currently, the ICC's regulatory functions are mainly in the trucking and railroad industries, with only very limited responsibilities concerning domestic water carriers, the intercity bus industry, brokers, and household goods freight forwarders. With the exception of railroad regulation, there are legitimate questions raised about the value in existing ICC regulation of surface transportation.

I am aware of the previous administration's proposal to abolish the ICC and transfer the remaining railroad regulatory functions to other agencies. Under the proposal, the ICC's existing railroad freight regulation would be transferred primarily to the Department of Transportation, with Department of Justice oversight on antitrust matters. I have not reviewed the plan in detail.

The question of ICC sunset warrants review. However, I would like to study this area further before offering a definitive answer.

(EXON #18)

QUESTION #18: Concern has been expressed that the FRA has been too willing to allow railroads to discontinue signal systems along various rail lines. In your opinion, what criteria should be used by the FRA in determining whether to allow such removal of signals by railroads?

Answer:

Safety must of course be the primary concern. Many factors must be considered in reaching a decision.

(EXON #19)

QUESTION #19: It has been brought to the attention of the committee that trains are operating without a radio and also carrying hazardous materials. The FRA examined the situation and began a rulemaking procedure over 2 years ago on the subject. Do you know how much longer this rulemaking proceeding will take before the FRA will make a decision?

ANSWER:

I am told that FRA held a series of public hearings on the broader issue of railroad communications on January 28, 29 and 30, 1987. Radio communications formed one of the principal focuses of that proceeding. Both oral and written testimony was received from rail labor, railroad companies, state governments, radio equipment suppliers, and other groups interested in developing new communications and train control systems for the industry.

I believe that completion of that proceeding should be the agency's first priority in 1989.

(GORE #1)

QUESTION #1: There is substantial agreement among scientists that there is a global warming trend and that the average temperature of the earth might rise by as much as 9 degrees Fahrenheit in the next century. This would alter our lives in ways which are difficult for foresee or respond to. Potential effects include increased frequency of summer heat waves and droughts, rising sea levels, more powerful storms, desrtifictaion of agricultural and forest lands and a host of other undesirable effects.

President Bush stated in his August 31, 1988 speech at Erie Metropark, Michigan: "Those who think we're powerless to do anything about the 'greenhouse effect' are forgetting about the 'White House effect.' As President, I intend to do something about it."

As Secretary of Transportation you would have a substantial impact on a major cause of global warming, the atmospheric buildup of carbon dioxide (CO2) emissions from the burning of oil in our motor vehicles. In that light I ask two questions?

A. Which decisions facing the Department of transportation will have the greatest effect on global warming? What actions do you recommend to help the United States meet the goal of 20% reduction of CO2 by 2005 enuniciated at last summer's Toronto Conference on the Changing Atmosphere?

B. Given the fact that the transportation sector accounts for approximately one-third of CO2 emissions, what do you think the Department of Transportation should do to address this sector?

Answer:

I have not yet had the opportunity to give more than a brief review to the issue of global warming. The President has clearly stated that he wants the issue addressed, and I intend to participate in that process.

(GORE #2)

QUESTION #2: With light trucks increasingly being sold as substitutes for passenger cars, they wipe out any fuel economy gains from statutory CAFE standards for cars. What would you do to improve the relative fuel economy of light trucks and vans?

Answer:

I understand that under current law the Department must review the light truck fuel economy standard anew for each model year. I expect that this review will give close attention to the manufacturers' abilities to incorporate new technology into their vehicles, as part of the determination of "maximum feasible average fuel economy" under the law.

(GORE #3)

QUESTION #3: According to DOT, actual cars on the road get about 15% poorer fuel economy than the EPA test results which are used for determining CAFE compliance. In 1975, this gap was only 2 to 3%. As a result, a new car that "meets" the statutory 27.5 MPG CAFE standard only gets only 23.4 MPG on the road. Would you support using actual gas mileage to determine compliance with CAFE?

Answer:

You have raised an interesting question relating to the technicalities of the CAFE law. I have not had a chance to review the details of that law and I do not have an opinion on this issue at present.

(GORE #4)

QUESTION #4: The Reagan Administration made some contributions to improved automobile and highway safety by encouraging increased safety belt use and in other areas. But, at the same time, it took a Supreme Court decision to get the Department of Transportation to move forward on standards for passive restraints. Not enough has been done to ensure the safety of multipurpose vehicles such as the minivans that have become so popular as family vehicles. And, overall, there has been no significant change in the highway death rate. Clearly, automobile safety issues are still an area of prime concern to which we ought to be devoting our very best efforts.

Can you give us some assurance that these and other automobile safety issues will be priority items on your agenda, and give us some insight into your auto safety goals?

Answer:

I can assure that I rank automobile safety, as other transportation safety questions, among my highest priorities. While I have not had a chance to become deeply involved in auto safety issues, I would expect to devote the attention to them they deserve.

(GORE #5, #6)

QUESTIONS #5: It is widely recognized in the safety community that tougher, updated standards are needed to require auto manufacturers to build their cars to protect drivers and passengers better from side impacts. What are your views on the current proposal to update the rule, and what will you do to get a new, stricter standard implemented as quickly as possible?

QUESTION #6: A number of important automobile safety standards do not apply to multipurpose vehicles such as light trucks and minivans. These vehicles are becoming increasingly popular as passenger vehicles, yet they are not subject to DOT standards regarding crush resistance, head restraints, high-mounted rear brake lights and automobile front seat protection for occupants. What will you do to extend auto safety standards to multipurpose vehicles that are used for personal transportation?

Answer:

The need to place a high priority on transportation safety is clear, and I will be carefully reviewing all areas of the Department's safety responsibilities. While I have not had a chance to study these issues carefully, I can assure that I will do so and will take appropriate action.

(GORE #7)

QUESTION #7: What measures will you take to improve the safety performance of tractor trailers on the nation's highways?

Answer:

The Department will continue its efforts to improve the safety performance of tractor trailers through:

The Motor Carrier Safety Assistance Program (MCSAP)

The Federal Highway Administration provides $60 million in MCSAP grants annually for the enforcement of motor carrier safety requirements to ensure the safe operation of trucks and buses on our Nation's roads and highways. The States conducted approximately 1 million driver and vehicle inspections in 1987.

The Commercial Driver's License Program (CDL)

The CDL program was established by the Commercial Motor Vehicle Safety Act of 1986. The Department met every deadline mandated by Congress. The CDL program ensures that: 1) only one license is issued to drivers, and 2) that all traffic convictions are reported to the State which issues the license. Congress authorized $61 million dollars to help the States in developing and implementing CDL programs. States must follow Federal minimum testing and licensing standards (issued July 1988), or risk losing highway construction funds in FY 1994.

The Safety Fitness Rule (December 1988)

The rule established FHWA procedures to determine the safety fitness of a motor carrier and the assignment of a safety rating. As of August 1988, the FHWA has contacted approximately 57,000 carriers, in order to assign safety fitness ratings. The FHWA plans to assign safety ratings for the other 120,000 interstate motor carriers over the next 3 to 5 years.

(GORE #8)

QUESTION #8: What efforts will you undertake to educate the public about the dangers of drunk driving and to curb this problem?

Answer:

I can assure you that the fight against drunk and drugged driving will be among my highest priorities. We need to look for new and innovative ways to solve this critical problem, but I am not prepared at this time to spell out in detail how we should proceed.

(ROCKEFELLER #1)

QUESTION #1: In the next few weeks I intend to offer legislation to study the establishment or coordination of a national network of scenic byways. This study would build on a report that was written by the Federal Highway Administration in 1973 on the feasibility of developing a national scenic highway system. Additionally, in July 1988 the Federal Highway Administration published an excellent handbook about scenic byways programs.

The Kennedy, Johnson, Nixon and Reagan Administrations all issued recreation reports calling for a national system of scenic byways. The recommendations, however, were never implemented. Over the next years, Congress will be called upon to craft a blueprint for our Nation's highway and transportation programs for the 21st Century. I think this is the right time for DOT to revisit the possibility of a national scenic byways program and offer recommendations to Congress.

Mr. Skinner, can I count on your support for a DOT-coordinated study of Scenic roads and byways?

ANSWER:

If I am confirmed, you may count on the Department of Transportation to take an active and responsible role in working with any legislated study of scenic roads and byways. The subject of scenic and recreational travel has wide interest which involves transportation, recreation, economic and environmental sectors at all levels of government, and private and public groups.

(BENTSEN #1)

Question #1: Recognizing that the federal share of the costs of building transit systems must, of necessity, decline, and that local governments may have to commit more resources than originally envisioned to such projects, what method do you think most useful to employ to gradually reduce the federal share without causing trauma at the local level by an immediate withdrawal of federal mass transit support?

Answer:

Coming from the transit sector, I can confidently say that the industry already knows that the Federal share is declining and more pressures will be placed on local and state government to pick up the difference.

The budget proposals of the previous administration have given the transit industry fair warning that future Federal funding should be used primarily for capital expenditures, that the local share for capital projects should be increased to at least a 50% level, that operating costs should be paid for by local revenue sources, and that the private sector should be brought in as a partner to help finance transit projects and help reduce costs. Clearly, balance and fairness must be maintained as we reduce the Federal government's role in funding mass transit.

(BENTSEN #2)

Question #2: Continuing in this regard, do you have any views on the extent to which federal funding for mass transit should be used to support creation of new transit systems in cities where none now exist?

Answer:

Many of America's cities are now exploring the construction of light and heavy rail mass transit systems. The benefits derived by these new expensive transit systems must carefully be weighed against the costs. Clearly, the federal government's ability to fund these new systems is decreasing, as we all face the reality of reducing the federal deficit.

As Secretary, I will carefully consider in consultation with the Congress all transportation funding demands in a fair, equitable manner.

(BENTSEN #3)

Question #3: Let me move to another area of concern to me --- highways. As you know, Mr. Skinner, the interstate highway system is scheduled for completion by the end of 1991.

a. What is your vision for a national highway system beyond that time?

b. Do you envision a continued federal role in funding a completed interstate highway system?

c. Would you recommend any changes to the mechanism for funding the interstate system -- the Highway Trust Fund -- in light of the scheduled completion of that system in 1991? If so, what would they be?

Answer:

As Secretary of Transportation, I will direct the development of a national transportation policy which will include all modes and the involvement of all the modal administrations. I also will be overseeing development of a legislative plan, in which we will be providing the Congress our perspective of the highway program in the future. A careful examination of the respective roles of the Federal Government and the States is necessary. Innovative and efficient ways of financing the nation's expanding highway needs are also required. I will work closely with the Congress and the transportation community in developing a plan for the future that will preserve our investment in the Interstate System and meet our infrastructure needs.

(BENTSEN #4)

Question #4: It is widely acknowledged by aviation experts, and notably by the Federal Aviation Administration and the American Association of Airport Executives, and the air carriers themselves, that capacity at the country's major airports is severely strained which has resulted in serious congestion, delay, and safety problems.

It is expected that as the demand for air travel continues to grow, the shortage of airport capacity in the major hub cities will only worsen.

a. In this vein, have you identified regions of the country (and I don't just mean Chicago O'Hare) where capacity needs are so substantial that it is causing a dangerous wrinkle in the system? If so, where are they and what do you propose to do about meeting these capacity needs?

b. Given the federal budgetary quagmire and environmental obstacles to airport construction at the local level, how do you expect the system to cope?

Answer:

Capacity and safety are critical issues and constructing new runways and new airports to serve major metropolitan areas will be a major transportation challenge. Airport capital improvement funding strategies need to be developed and environmental concerns, principally noise, must be addressed as part of a national transportation policy. As to the specifics, I intend to wait until I've had time to examine the entire program.

The federal deficit and obstacles to expanding airport capacity to meet demand are tough challenges for the Administration. Air commerce is a significant contributor to our nation's GNP. Continuing growth at an airport expands jobs in the local community and broadensw the tax base to improve the deficit. Federal funds needed to support airport capacity will fuel the construction and aviation segment of the economcy, returning jobs and revenue to the local community. Communities which fail to address the airport capacity issue may be faced with economic stagnation in the aviation job market.

Aviation is a segment of the economy which is on a boom. National and local policies should not constrain expansion of this vital transportation system. As delays increase, airline profitability will be affected and consumer transportation costs will rise. We are committed to breaking the logjam here, and I intend to work with state and local government to assure adequate airport capacity exists to meet demand for the 1990's, while providing a safety aviation system responsive to economic growth.

(BENTSEN #5)

Question #5: Mr. Skinner, some people have even suggested that one way of solving the air capacity problem is through expanded use of interurban high speed rail projects. That view says take more people out of the air. That is to say, rather than flying to a destination within 300 miles of home, take high speed rail.

a. What are your thoughts on the use of high speed rail as a tool to reduce congestion and delay at airports?

b. If you are sympathetic to such a concept, what funding sources can you identify inasmuch as interurban high speed rail projects are costly and may require federal subsidies to gain private financing and public acceptability?

Answer:

I believe that high speed rail may be able to make a contribution to the relief of airport and highway congestion in selected high density corridors. Several states, including Florida and Texas, have cited such congestion as one of the public benefits justifying their consideration of high speed rail projects.

I know of no case in which project promoters have predicated their proposals on the availability of Federal funding. The position I would take at this time is that we are interested in the projects, but funding is principally a state and private sector issue. We're looking to the states for their experience.

(BENTSEN #6)

Question #6: Finally, I'd like to move to the technical functions of the FAA and what some have described as micromanagement of that agency and its technical functions by the Department of Transportation. I understand that this problem is particularly acute in the area of procurement and the time it takes to get new equipment.

a. Tell us, Mr. Skinner, are you satisfied at the pace with which equipment modernization in our air traffic control system is progressing? If not, what reforms do you have in mind to quicken the pace?

b. Do you think that the FAA is capable of or has the power or flexibility to meet the challenges of our expanding aviation system under the existing government structure?

Answer:

6(a). No, I am not really satisfied with the pace of the NAS Modernization. At the same time, we must be careful to examine the full impact and "cause and effect" of the proposed changes.

While there has been schedule delays in the NAS modernization, very few can be attributed to the acquisition process and OST management or over-management of the FAA. The vast majority of major schedule delays have been due to optimistic planning and contractor production problems, particularly with software development. Keep in mind that at this point approximately 95 percent of the original NAS Plan projects are under a production contract.

The FAA's challenge now is production of acceptable hardware and software and implementation of those new systems into the operating air traffic control system.

With my own background in the computer industry, I intend to look at these issues in the near future and I may then need to propose further actions.

6(b). Yes, I tend to believe that the FAA is capable of meeting the challenges of the future under its current structure. Nevertheless, I am interested in what others have to say on the subject, and I intend to examine a variety of views.

(Kerry #1)
(Environmental)

Question #1: On August 31, 1988, at a speech in Erie Metropark, Michigan, George Bush told the American people that we can "do something" about the greenhouse effect. He made it crystal clear that those who thought that we could do nothing about this problem were wrong. He told the American people "Those who think we're powerless to do anything about the "greenhouse effect" are forgetting about the "White House effect". "As president, I intend to do something about it," Mr. Bush delayed. He added that "one critical answer to this problem is conservation."

In addition, the Toronto Conference on the Global Atmosphere suggested that nations reduce their CO2 emission by 20% by the year 2005. Legislation was introduced in the Senate last year calling for a 20% reduction by the year 2000.

- As the world's largest contributor, do you believe that the U.S. should set an example by reducing its CO2 emissions?

- Are you prepared to address the issue of automotive fuel economy? Foreign automotive imports continue to rise, the U.S. is currently importing more oil than it produces, and CO2 emissions is rising at an alarming rate. In the past DOT has not adequately addressed this issue. In fact, they have relaxed the Corporate Average Fuel Economy standards. Some experts estimate that by changing the 1988 and 1989 fleet's fuel economy standard from 26.5 to 27.5 you could save 3.8 billion barrels of oil a year or 248,000 barrels of oil a day.

- Are you prepared to review last year's relaxation of auto fuel efficiency standards which I understand has been challenged in court? Are you willing to go further in changing the standard?

- The 1990 fuel economy standard has not been issued in final regulations. Are you prepared to finalize the regulations for this? Do you plan to roll back the standard like you predecessor did with the 1988 and 1989 standards? It is my hope that you will not roll back the standard.

(Kerry #1 continued)

- Can you tell us what other options you are considering to conserve energy and to reduce carbon dioxide? Will you have options for the U.S. automobile and transportation sector, which together, produce 1/3 of our CO2 emissions?

ANSWER:

I have not yet had the opportunity to give more than a brief review to the issue of global warming. The President has clearly stated that he wants the issue addressed, and I intend to participate in that process.

It is my understanding that the rulemaking proceeding on passenger car CAFE for model year 1990 is still pending and will not be decided prior to my confirmation. In the normal course of the Department's rulemaking, I would have the opportunity to review significant rulemaking documents and expect to do so in this case.

(Kerry Question #2)
(Disability)

Question #2: Handicapped Parking Legislation:

Handicapped Parking legislation which I introduced, was signed into law by the President last year. Congress intended that the regulations formulated by DOT, be binding on the States. Do you intend that the states be mandated to comply with these regulations?

The handicapped Parking legislation also mandated that regulations be published within 180 days. It is my understanding that no action has been taken to comply with this timeframe. What action do you intend to take to ensure that this timeframe is adhered to?

ANSWER:

The handicapped parking legislation to which you refer directed the Secretary of Transportation to adopt regulations to provide for a uniform system of handicapped parking and to "encourage adoption of such system by all the States." A highway funding penalty for failure to adopt the uniform handicapped parking regulations was included in an earlier version of the bill that led to this legislation, but the final legislation does not include such a provision. Under these circumstances, it would not be reasonable to conclude that Congress intended the regulations to be binding on the States or that the Department mandate that the States comply with the rules.

The legislative history of the statute indicated that Congress was interested in the Department using regulatory negotiation to develop the uniform handicapped parking rules. The Department is actively considering this approach. In a regulatory negotiation, the Department would call together an advisory committee composed of representatives of interested parties which, under the leadership of an impartial mediator, would attempt to negotiate the terms of a proposed and, after the comment period, a final rule. This process takes somewhat longer to begin than a standard rulemaking process, and normal rulemaking requirements (such as a notice of proposed rulemaking and Office of Management and Budget review) still apply. While it is unlikely for this process to be completed within the 180-day timeframe, it is my intention that the Department proceed expeditiously with this rulemaking, so that the regulations are completed as close to the Congresionally-established timeframe as possible.

(Kerry #3)

QUESTION #3 In October of 1986 the Air Carrier Access Act which I cosponsored, was signed into law. It required DOT to write regulations to implement the law. It is now over two years since the law was enacted and individuals with disabilities are still being discriminated against by airlines. For example, recently reported in the January 15, 1989 Washington Post, a double amputee was treated unconscionably by Pan American World Airways. Not only was he verbally abused, but he was treated so roughly that his pants literally fell of in front of other passengers. Furthermore, Equal Employment Opportunity Commissioner Evan Kemp, Jr. has been forced to cancel speaking engagements on behalf of the Administration because airlines have refused to provide him service due to his disability. My office is frequently contacted by constituents with disabilities who are harassed by the airlines.

In light of these fairly common experiences faced by individuals with disabilities, who are treated poorly or refused service because of their disability, can you suggest a specific timeline for issuing final regulations to implement the Air Carrier Access Act?

Are you willing to work with the airlines on voluntary educational initiatives, so that their employees can learn more about assisting disabled citizens and being more sensitive to their needs?

ANSWER:

The Department, at the request of groups representing disabled persons, used a regulatory negotiation to prepare the proposed regulation (issued in June 1988) to implement the Air Carrier Access Act. The comment period on this proposal, which was extended at the request of disability groups and the airlines, ended January 18, 1989. The Department is currently reviewing the voluminous comments received and exploring the possibility of bringing the interested parties back to the negotiating table to discuss the final rule. The Department hopes to complete its work on a final rule by late spring of this year.

The Department is willing to work with airlines on voluntary educational initiatives of the kind you mention. In addition, the Department's proposed rule to implement the Air Carrier Access Act would require airline personnel to receive training for this purpose.

(Kerry #4)

QUESTION #4: Based on your experience in Chicago and the negotiation settlement that you helped facilitate, will you encourage other transit authorities around the country to purchase lift equipped buses?

What will you do as the Secretary of DOT, to ensure that people with disabilities will have the same opportunities to use the public transit systems that are available to other individuals without disabilities?

ANSWER:

Lift-equipped buses are one useful approach to providing mass transit services that persons with disabilities can use. It would be a mistake, however, to assume that any single approach to providing these services is going to be the best approach in all localities. I will encourage mass transit authorities to meet their obligation to provide service to citizens with disabilities through the approach, or combination of approaches, that will work the best in their circumstances.

The Department will continue to implement its existing regulations and programs designed to provide transportation opportunities to persons with disabilities. We will work closely with concerned parties to ensure that the transit authorities provide this service as effectively as possible.

(Kerry #5)

QUESTION #5: In 1986, proposed regulations were published which discussed the Department of Transportation's obligation under section 504 of the Rehabilitation Act, with regard to commuter rail systems which receive federal financial assistance. As of yet, DOT has not published final regulations. Therefore, transit authorities are unsure as what their obligations are for individuals with disabilities. As you know, Chicago's facility METRA, has had difficulties. When will the final regulations be published?

ANSWER:

The 1986 proposal to which you refer was published at the same time as the Department's final rules for other mass transit services for persons with disabilities. The proposal included options that closely paralleled the final rules. A Federal District Court decision in Philadelphia found that some key provisions of the final rules were invalid. The Department's appeal was argued before the Court of Appeals for the Third Circuit last fall. The court is currently considering its decision.

Pending the court's decision on the validity of provisions of the final rules, the Department has deferred publication of a final rule on the commuter rail proposal. This is because, until that decision is rendered, the Department will not be in a position to know the legal validity of some of the options proposed. When the court decision is rendered, the Department will draft a final rule consistent with the court's judgment.

(Kerry #6)

QUESTION #6: At former Secretary Burnley's confirmation hearing, he was asked when the regulations providing application of section 504 of the Rehabilitation Act to DOT programs would be published. By law, DOT was to comply in 1978. Mr. Burnley predicted that the NPRM for public comment would be in early 1988 with the final rule to be published by the end of 1988. It is now early 1989, and the NPRM for public comment has yet to be published. As the Secretary of DOT. How do you intend to ensure that the NPRM and final rule is published as soon as possible and when will the publication occur?

ANSWER:

Executive Order 12250 requires the Department to submit regulations under section 504 for clearance to the Department of Justice (DOJ). The Department first submitted its draft of this NPRM to the DOJ in June 1986. The Department has submitted redrafts in response to DOJ comments on a number of occasions since that time. However, DOJ has yet to approve the NPRM. As Secretary, I will urge DOJ to complete its review so that the Department can transmit the NPRM to the Office of Management and Budget (OMB) for Executive Order 12291 review and then publish it. I would anticipate a 90-day comment period. After the end of the comment period, the Department will review the comments and draft a final rule, which then must again be reviewed by DOJ and OMB. Because of the uncertainties of the review process, it would be difficult to predict a publication date at this time.

(Kerry #7)
(Coast Guard)

QUESTION #7: 1. Last year the President signed into law the Fishing Vessel Safety act. As of two weeks ago, nine of the seventeen member safety advisory panel had been appointed. All of the initial nine are Republicans and to the best of my knowledge, the additional eight have yet to be appointed. It was clearly the intent of Congress to establish a balanced bipartisan group who were experts on safety issues and could advise both Congress and the Secretary on how best to implement safety regulations. Is it your intention to play politics with this panel?

2. To the best of my knowledge, Mrs. Peggy Barry, a nominee to be a panel member, has yet to be picked. Mrs. Barry who has appeared on the national networks as well as been the subject of numerous newspaper editorials, lost her son a few years ago in the Bering Sea on an unsafe vessel, and has crusaded for the passage of this legislation ever since. In essence, not only is she one of the most knowledgeable individuals on this subject, but if it were not for her I strongly doubt we would have legislation passed at all. Will you assure me that you will closely look at this candidate and get back to me on your decision?

3. In the FY'89 Appropriations legislation DOT was allocated money for advisory panels. Coast Guard has not been allocated any funds for the Fishing Vessel Safety Advisory panel. Can you tell me if money will be allotted for this panel?

ANSWER:

1. No, it is not my intention to play politics. I intend to establish a council that will help improve the safety of the fishing vessel fleet in the best manner possible. The first 9 members are Republicans and the remaining eight slots will be filled with Democrats or independents. I intend to move quickly to fill the remaining slots.

2. I assure you that Mrs. Peggy Barry will receive careful consideration. I will get back to you when my final decision is made.

(Kerry #7 continued)

3. I am presently looking into reallocating DOT funds for advisory committees which are constrained by a congressionally imposed spending ceiling.

The $276,000 ceiling in the DOT Appropriations Act for all DOT advisory committees did not consider establishment of the new committee. The spending ceiling was allocated to the existing advisory committees. The Department must attempt to ratchet down advisory committee spending department-wide in an attempt to accommodate the new committee. This is a difficult problem because the spending ceiling was less than what had originally been requested.

Alternately, the Coast Guard may have to wait until October 1989 for the first meeting unless Congress eases the restrictive ceiling on DOT advisory committees.

The Coast Guard plans to have the first meeting of the Advisory Committee as soon as possible. The committee charter has already been approved. However, until the funding ceiling situation is resolved the first meeting is on hold.

(BREAUX #1)

Question #1: It is my understanding that the Administration will again propose reform of the Operating Differential Subsidies (ODS) program. Please outline the major components of this new proposal. Also, when will this proposal be submitted to the Congress?

Answer:

Any reform proposal will be developed as part of the Department's overall transportation policy. The major components of a reform proposal should maximize the operating flexibility of subsidized operators, while providing strong incentives for cost efficiency.

We recognize the need to work with the various industry components to achieve meaningful reform.

(BREAUX #2)

Question #2: Many industry analysts believe that an affirmation and restatement of our national maritime policy remains an essential first step for redressing the deteriorated maritime capabilities of the United States

In fact, you have stated that "the bottom line is that we are committed to a comprehensive maritime policy, with the ultimate goal of restoring the United States maritime industry in the interests of economic and national security." Specifically, what does this policy include and how do you propose to accomplish this goal?

Answer:

Maritime policy must be based on a careful assessment of economic and national security requirements. To achieve this goal, we must meticulously analyze the programs presently in place as well as proposals reflecting new and innovative thought. We must also obtain, to the maximum extent possible, support and cooperation from the many diverse interests in industry, labor and Government to assure that the course that we pursue can be realized.

I cannot detail the specifics of this policy until the alternatives have been considered.

(BREAUX #3)

Question #3: Mr. Skinner, how do you plan to carry out the President's campaign pledge to emphasize the construction and maintenance of an operational merchant fleet?

Answer:

The President's campaign pledge called for a Government policy review to explore options emphasizing the construction and maintenance of an operational merchant fleet. I am committed to implementing this pledge and will do so as a part of developing a national transportation policy.

(BREAUX #4)

Question #4: The President has stated on several occasions the need to make American industries competitive on the international market. To this end, do you intend to promote investment in shipyard plant capital and production processes to improve competitiveness in the shipbuilding industry?

Answer:

Clearly, we need to reassess the respective roles of Government and business and foster cooperation and coordination between all parties in the shipbuilding industries. I have already stated my views on the importance of the shipbuilding and ship repair industries to national defense readiness.

I understand that representatives from the shipbuilding industry have recently suggested that, given an initial level of Federal support, it may be possible to achieve a competitive position down the line that would obviate the necessity for continued Federal support. I am interested in what they have to say on this issue.

(BREAUX #5)

Question #5: You have acknowledged that the deteriorating condition of our merchant marine is a danger to national security. You went on to say that:

Although no single policy or program can restore our nation's merchant marine overnight, the President's Commission found that the Federal Government should consider a number of specific positive steps to assist in the overdue revitalization of the U.S. maritime industry and merchant marine.

What does that mean in terms of the specific role of the Department of Transportation?

Answer:

Section 101 of the Merchant Marine Act of 1936 assigns to the Secretary of Transportation the responsibility to develop a merchant marine "capable of serving as a naval and military auxiliary in time of war or National emergency." I accept that responsibility and will consider this a mandate in the development of a national transportation policy.

(BREAUX #6)

Question #6: Do you agree that government construction alone, mostly Navy and concentrated in a small number of shipyards, is insufficient to maintain a diversified shipbuilding and repair industry, including shipyard suppliers, sufficient to meet mobilization requirements in time of war or national emergency?

- Do you believe government assistance in some form is necessary to maintain an adequate shipbuilding base?

- Can the Committee expect DOT to submit a proposal to aid our shipyards?

Answer:

As I stated at my hearing, there is no question that shipbuilding and associated industries are essential mobilization resources. At this time I do not know whether Government construction alone is sufficient to maintain the shipyard mobilization base.

Every evaluation of our shipbuilding industry indicates that it is not competitive in the world market and I expect that proposals to aid our shipyards will be fully addressed in the Administration review of sealift readiness. A good starting point is a review of the Commission on Merchant Marine and Defense study.

(BREAUX #7)

Question #7: As you know, the Commission on Merchant Marine and Defense and industry analysts have warned that unless we reverse the American merchant's fleet's decline, this country will be unable to fulfill critical national defense sealift requirements. Of course, we also must ensure an adequate shipyard mobilization base to assist in our national defense efforts. But just last week, your predecessor summarized the Reagan Administration's view that "you don't necessarily solve the problem of having a shipbuilding base on the same day and in the same way you solve the problem of U.S.-flag vessels existing and having work to do." How do you proposed we solve this problem recognizing the critical importance of both of these resources?

Answer:

Reversing the decline of the maritime industry must be a national objective, and I am committed to that end. Shipbuilding and ship operations have been traditionally viewed as the two primary components of the larger Maritime industry. While there are obvious linkages between these components, it is also clear that they are separate industries with their own unique problems.

The concerns you raise will be the focus of our policy development.

(BREAUX #8)

Question #8: Many of us felt strongly that it was completely inappropriate to include maritime matters in the U.S.-Canada Free Trade Agreement. Unfortunately, during the negotiations the Administration refused to provide us with any assurance that maritime matters would be excluded from the Agreement. So we had to take some preliminary legislative actions that some thought might jeopardize passage of the entire Agreement.

Of course, we have even more serious concerns about including maritime matters in a new GATT services agreement. What are your views concerning inclusion of maritime services in the GATT?

Answer:

As President Bush stated in his maritime policy statement, establishment of maritime conncerns will be a priority in international trade negotiations. The concerns of maritime services representatives will be fully considered during any multilateral discussions, especially in GATT. I am fully aware of the level of interest in the Congress regarding inclusion of the maritime services in the GATT. I intend to work closely with the Congress on this issue.

(BREAUX #9)

Question #9: Mr. Skinner, as I am sure you are aware, the last Congress created a Commission on Merchant Marine and Defense because of growing concern that while our Nation had committed hundreds of billions of dollars to rebuilding our military forces, it had done nothing to maintain the merchant type sealift on which DOD relies during overseas deployments. This problem was highlighted by then Secretary of the Navy Lehman, who while swearing in the members of the Commission, stated that the U.S. merchant marine is "the greatest glaring deficiency" in the United States ability to wage war overseas.

The Third Report of the Commission on Merchant Marine and Defense was presented to the President earlier this month. Are you familiar with that report?

Do you agree with the Findings of Fact and Conclusions in the Third Report of the Commission? If not, specifically, which do you disagree with and why?

Are you aware that in its report the Commission relied exclusively on statistics and other data supplied by the Department of Transportation and the Department of Defense in making it Findings of Fact and Conclusions?

Answer:

I am aware of the work of the Commission on Merchant Marine and Defense, much of which, as you note, was based on factual data supplied by DOT and DOD. The situation this report describes does indicate that there is "a clear and growing danger to the national security in the deteriorating condition of America's maritime industries."

Although no single policy or program can restore our Nation's merchant marine overnight, the Commission found that the Federal Government should consider a number of specific, positive steps to assist in the overdue revitalizaiton of the U.S. maritime industry and merchant marine.

(BREAUX #10)

Question #10: The Commission has "....found clear and growing danger to the national security in the deteriorating condition of America's maritime industries." And most ominously, specifically found that "...the existing dry cargo assets are not adequate to meet current sealift requirements for the initial phases of a conflict in Southwest Asia." Given the current tense conditions in Southwest Asia, and given the critical role of the merchant marine, do you agree that prompt and vigorous action is required to revitalize our merchant marine?

Answer:

It is premature for me to state whether I agree or disagree with specific proposals contained in that report but let me assure you that I intend to closely examine the report and each of its recommendations.

(BREAUX #11)

Question #11: As former Chairman of the Chicago Transit Authority I am sure that you understand the mass transportation needs of local governments. The Reagan Administration proposes to cut Federal aid to mass transit by about 50 per cent. What is likely to be the impact of such cuts on the ability of local governments to provide adequate services to their citizens, particularly the elderly and low income persons who must use mass transportation to get to their jobs? What budget changes, if any, will you propose to President Bush?

Answer:

I do understand mass transit needs and the importance of mass transit to providing mobility to our citizens, particularly the elderly and low and moderate income persons.

At this point, I can not say what changes, if any, will be made to the FY 1990 budget, but you can be assured that my background as Chairman of the Regional Transportation Authority of Northeastern Illinois makes me fully cognizant of the pressures facing state and local governments as they try to provide needed transit services. Also, I will be addressing overall mass transit needs as part of my plan to improve the nation's ailing infrastructure. This plan will be one facet of the National Transportation Policy I have committed to undertake as Secretary of Transportation.

(BREAUX #12)

Question #12: In a September, 1988 Subcommittee FAA oversight hearing, I asked Former FAA Administrator T. Allan McArtor to explain factors used to develop the priority system of awarding the Doppler Weather RADAR to airports around the country. These radars will provide the capability to detect severe thunderstorms, tornadoes, low level wind shear, and microbursts. Indications are that weather and plane activity were key factors in determining the priority schedule of airports that are to receive this system.

New Orleans weather conditions are as violent and as unpredictable as any in the country; its traffic density factor is near 60, yet that airport received a very low priority for receiving the Doppler system. I received no follow-up response to either my initial request or to a subsequent letter and phone call. Will you provide a response to my questions concerning criteria used to construct a priority system which places New Orleans fifteenth among seventeen airports scheduled for installation of the Doppler RADAR?

Answer:

A check with the FAA staff indicates that a response was prepared for the Committee hearing record in order to provide you an answer, but you are quite correct that your letter still languishes in the correspondence backlog. If confirmed, I will see that the letter is answered, but I am attaching the insert for the record that provides some information. It appears that the presence of Andrews Air Force Base near National and use of Andrews by the President accounts for the priority at National.

[See S. Hr. 100-660, Part 2, page 87. Senate Commerce Oversight of the FAA.]

(BREAUX #13)

Question #13: On November 6, 1988 Moisant was scheduled to be downgraded from level 4 designation to level 3. According to FAA staff, New Orleans International's hourly density factor dropped below 60 (to 57) for a 6-month period. In such cases the level 4 facility is downgraded to level 3, irrespective of whether there may be mitigating factors which would warrant the retention of the higher designation. The lower designation will permit the use of less experienced, lower paid air traffic controllers at New Orleans International. Moreover, the required number of controller may be reduced.

Pilot reliance on controllers in the New Orleans area's unpredictable and violent Weather Conditions; host city high traffic density created by many special and seasonal events, such as major sporting events, political or similar conventions; and, RADAR management experience requirements at this airport are among the factors that, if maximum public safety is a priority, would demand acquisition and retention of the most experienced, and thus better paid, air traffic controllers.

What steps are being taken to secure and retain in sufficient numbers seasoned air traffic controllers for level 3 airports with risk factor characteristics similar to those at New Orleans International?

Answer:

By way of background, it is my understanding that Moisant Airport Traffic Control Tower in New Orleans was reclassified from a Level IV to Level III, effective November 6, 1988. This was accomplished in accordance with classification standards set forth by the Office of Personnel Management which are based on the volume of air traffic controlled and associated level of job complexity. The continuous drop in the volume of air traffic at the airport necessitated the downgrading. The staffing and experience level at Moisant were not affected by the reclassification.

Employees whose positions are reclassified to lower grades are entitled to grade retention and all benefits of the retained grade for 2 years. At the expiration of the 2-year period, employees are entitled to pay retention and will receive 50 percent of annual comparability pay increases.

Further, the controllers at Level III towers are compensated at the GS-12 level. It is my understanding that there are several levels of controllers who earn less than that amount and would be very willing to advance to the Level III towers in order to earn the increased salary. Therefore, there should be a sufficient number of seasoned air traffic controllers to staff the Level III facilities.

(BREAUX #14)

Question #14: Hundreds of jets over 20-years old are still flying, and some are flying longer than their designers expected. In some ways their maintenance can be considered an uncharted domain. Such maintenance is difficult, different, time-consuming, and very costly: take-offs, landings, and flight-stress wear and tear causes metal fatigue or corrosion of critical structural elements that are hidden beneath the skin, or in other hard-to-reach areas.

We have seen the roof collapse on a plane and a hole develop in another in flight. Experts say, however, that older planes can continue to fly safety if properly maintained. The loss of even one life is too many if it is a result of inadequate inspection and maintenance of an over-utilized airplane.

Is it sound policy to permit plans to fly hours or time periods that are beyond their design objectives when we are uncertain about effective inspection and proper maintenance requirements; when we are uncertain about efficient methods for training maintenance personnel; and, when efficient technology with which to inspect the critical structures of older plans is under-developed? Is the cost of proper maintenance of older commercial airplanes, including cost of added personnel and the cost of training, and the cost of research and development necessary to improving the efficiency of older plane inspection and maintenance, so prohibitive as to be beyond the reasonable capability of most carriers? Should government play a larger role in research, inspection, and actual maintenance of older commercial aircraft? If "no", how are we solving these problems? If "yes", define that role.

Answer:

Government does have a role , and the issue of aging aircraft will continue to merit priority attention during the coming years. Although many of the recent incidents that have received public attention are not attributable to the age of the aircraft, increasing scrutiny will be required as aircraft remain in our fleet for additional service. As for defining the proper role, I will look to the FAA to take the lead, working with the airlines and the manufacturers, to enhance inspection, maintenance, and, where warranted, replacement programs for certain aircraft components. I do not believe we have any evidence to date that would support the mandatory retirement of aging aircraft.

(BRYAN #1)

Question #1: At your confirmation hearing, in response to my question on corporate average fuel economy (CAFE) standards, you pledged to review the issue and expressed concern that we as a nation are becoming less cautious in our use of fuel. A petition by certain auto manufacturers to reduce the CAFE standards for the 1990 model year is now pending before the National Highway Traffic Safety Administration (NHTSA), and could be decided at any time. It is my understanding that the Administrator of NHTSA has been delegated the authority to decide such petitions unless the Secretary of DOT specifically requests review of the matter. Given your statements at your confirmation hearing, will you promptly request the opportunity to review the 1990 model year CAFE petition if you are confirmed as Secretary?

Answer:

It is my understanding that the rulemaking proceeding on passenger car CAFE for model year 1990 is still pending and will not be decided prior to my confirmation. In the normal course of the Department's rulemaking, I would have the opportunity to review significant rulemaking documents and expect to do so in this case.

(BRYAN #2)

Question #2: Under current law, petitions filed with the Department of Transportation to investigate a potentially defective vehicle or an insufficient safety standard must be decided within 120 days of their filing. DOT rarely, if ever, meets that time period; in fact, a NHTSA official testified at a 1988 appropriations hearing that the average petition takes 8 months to be decided. Does the concern you? If so, what steps will you take to expedite consideration of these petitions?

Answer:

Although I have no personal experience with safety defect investigations, I believe the Department has a responsibility to carry out its law enforcement responsibilities in a prompt manner and I would be concerned at any reports of undue delay.

(DANFORTH #1, #2)

Question #1: Side impact crashes kill about 9,000 Americans each year. In 1979, NHTSA recognized that its side impact standard for passenger cars was inadequate. Moreover, there is no side impact standard for light trucks and mini-vans. Last January, NHTSA opened a rulemaking on improving side impact. Will you make improved side impact protection a priority? When will you issue a final rule?

Question #2: Vehicles in the light truck category are exempt from many safety standards that are required for passenger cars. Do you believe light trucks should be subject to requirements such as minimum roof crush resistance, head restraints, high mounted centered brake lights and the passive restraint rule on airbags and automatic seat belts?

Answer:

The need to place a high priority on transportation safety is clear and, if confirmed, I will be carefully reviewing all areas of the Department's safety responsibilities. While I have not had a chance to study these issues carefully, I can assure your that I will do so and will take appropriate action.

(PACKWOOD #1)

Question #1: Are you aware of the legislation passed during the last session regarding implementation of a commercial drivers license?

Answer:

Yes, I am aware of the enactment of the Truck and Bus Safety and Regulatory Reform Act of 1988 (P.L. 100-690) and that it directed DOT to establish by December 31, 1990, minimum uniform standards for a biometric identification system to ensure the identification of operators of commercial motor vehicles. Funding sources for a pilot project to demonstate the use of such a system were also authorized by the Act. I understand that the Department expects to meet the time schedule set by the law.

(PACKWOOD #2)

Question #2: Are you aware of the investigation being done by the State of California regarding the use of biometric identification?

Answer

Yes, I am aware of that investigation. The Federal Highway Administration (FHWA) is funding the investigation under a Commercial Driver's License grant. California has lead responsibility for the effort, with a multi-State committee (and FHWA) providing oversight.

(PACKWOOD #3, #4)

Question #3: What is your thinking about the use of biometric identification in conjunction with the commercial drivers license program?

Question #4: Have you reviewed the characteristics of the retina scanning technology versus fingerprint system?

Answer:

It would be premature to state my reaction to the use of biometric identification until I have had an opportunity to study the results to date of the California study and until more is learned in the course of the pilot demonstration that is to commence this year.

I have not yet reviewed the characteristics of the biometric identifiers, but I expect to in coming weeks.

(PACKWOOD #5)

Question #5: Are you familiar with the biometric identification company EyeDentify and their parent company Pacific Telecom/Pacific Corporation?

Answer:

I am aware of this company and their parent company. I am also told that this is the only company that currently markets a device for the retina scan biometric.

(PRESSLER # 1 and #2)

Question #1: The Department of Transportation continues to ignore the importance of the Essential Air Service (EAS) program by failing to request any funding for the program in fiscal year 1990. However, Congress has indicated substantial support for continuation of EAS payments to air carriers who provide service to areas who otherwise would not have air transportation as an option. Considering these facts, what is your view of the EAS program and will you commit yourself to the support of EAS?

Question #2: Many have suggested a supplemental appropriation to make up for the $6.6 million shortfall in EAS funding. With less than sixty days until the current DOT suspension of the Notice of Proposed Rulemaking on EAS expires, the chances of passing a supplemental in time seems remote. Would you, as Secretary of Transportation, consider a request for a reprogramming of funds from within the current DOT appropriation? What will be your commitment to securing action on a reprogramming?

Answer:

In response to your two questions, I have visited with numerous members of both Senate and House who have emphasized the importance of the Essential Air Service programs to their states and districts. It is clear that there is a sentiment in the House and the Senate to solve the EAS shortfall this year. I am committed to help solve it, and I have asked the budget people to examine various sources of revenue. Whether it is a reprogramming or a supplemental, I am not in a position to talk about that until I meet with the Director of the Office of Management and Budget and get his thoughts on the issue. The same will be true for inclusion of EAS subsidies in the Bush Administration Budget Request for FY 1990.

(PRESSLER # 3)

Question #3: The Department of Transportation, as with the Essential Air Service program, has stated that the Local Rail Service Assistance program has outlived its usefulness despite the large number of rail line rehabilitation projects that have been identified. Do you feel there is a need for continuing LRSA?

Answer:

As I indicated in my appearance before the Committee, I believe I should reserve a conclusive answer until we can determine whether a reevaluation of the Local Rail Service Assistance program is in order. I recognize that the previous administration has taken a position against the program, although it did agree to and in fact sought new FY 1989 funding for the program despite its lapse at the end of FY 1988. I very much recognize its importance to many communities around the nation.

(PRESSLER #4)

Question #4: Considering your background, I assume you are familiar with highway and transit needs in urban areas. But as Congress considers reauthorization legislation for federal and transit programs before 1991, I am concerned about your understanding about the special needs of rural highways. Please outline the steps you intend to take to familiarize yourself with these and other factors requiring a strong federal funding commitment to rural highways.

Answer:

I have an understanding of the special needs of rural highways that comes of personal experience. I grew up in Springfield, Illinois and, long before I was flying an airplane or doing anything for mass transit, I was driving a truck in summers throughout the Midwest, six days a week, 12 hours a day. My experience taught me we needed a better road system throughout the United States. Roads in the rural areas and in the metropolitan areas are going to be a key issue, because they are and continue to be the essential way that most Americans travel within this country.

(PRESSLER #5)

Question #5: Senator Danforth, with the help of the General Accounting Office, has identified the emerging problem of airline concentration at hub airports. Obviously, rural travelers have no choice but to make a connection in these hub airports that are many times controlled by one air carrier. This has resulted in a serious decline in service. More and more flights are being cancelled. Some carriers are refusing to check baggage onto a connecting flight with a commuter airline. What can you, as Secretary of Transportation, do to help improve this deterioration of service to rural fliers.

Answer:

I believe the Secretary of Transportation is in a position to do a lot. If we are going to have a deregulated aviation environment, we need more capacity so that there can be effective competition. We are going to have, as part of our National Transportation Policy, a program to build capacity. In the meantime, we have to look at ways that we can insure competition can thrive, and that is one of my short-term priorities. I do think the FAA, for its part in the equation, is doing a pretty good job, given the demand that we have placed on it so quickly. They need enough resources to address their part of the capacity problem.

(KASTEN #1)

QUESTION 1: Last year during a hearing before this committee, the Federal Railroad Administration endorsed my proposal to exempt Amtrak from FELA coverage for a trial period of 36 months. In doing so, Mr. Riley noted that the test proposal would save Amtrak approximately $50 million. However, it would more importantly provide the opportunity to resolve once and for all the many charges levied against the FELA system.

Have you had time yet to review this proposal?

If not, I would like to use this opportunity to urge you to do so.

Answer:

I have not yet had the opportunity to review the specifics of your proposal but intend to do so if confirmed as Secretary.

(KASTEN #2)

QUESTION #2: I am concerned about the recent halt in short line and regional railroad sales and the effect this is likely to have on abandonments.

During the hearings we have held over the past years regarding this subject, every one except the unions have praised the line sales for preserving rail service, jobs and economic opportunities.

In 1987 and 1988, a number of line sales were defeated in court. Currently, this issue is before the Supreme Court. As a result of the litigation, line sales have come to a halt, and abandonment applications have begun to increase.

Have you had the opportunity to consider what you plan to do with regard to this issue?

What kind of legislation do you think is required to get these sales back on track?

Answer:

I addressed the short-line sale issue during my appearance before the Committee in response to a question from Senator Packwood. I stated that I had not had a chance to study the issue in depth but recognized its significance. The issue strikes me as one deserving of a great deal of legal research.

I also stressed that the areas of the country that rely on the short lines must have service maintained in some fashion and not have the rug pulled out from under them.

(KASTEN #3, #6)

QUESTION #3: In view of the virtual unanimity of agreement about the need for major structural changes at the FAA and the urgency about this nation's inadequate aviation infrastructure, don't you agree that greater leadership must be demonstrated by the Bush Administration in solving our aviation problems? Would you agree that FAA reform legislation should be given high priority? How soon could we expect legislative recommendations from you?

QUESTION #6: In recent years, increasing frustration has been expressed by FAA employees and virtually everyone who has an interest in aviation about the inability of the Agency to do its job effectively because of bureaucratic wranging and micromanagement by the DOT staff over FAA. What steps do you think are necessary to correct this problem?

Answer:

As a pilot, I have a deep appreciation for the duties and responsibilities of FAA, and I have a very high regard for the men and women who staff the agency. I am also very much aware that commercial air traffic has greatly increased over the past 10 years and will continue to do so. The scheduled aircraft miles flown, for example, in 1988 increased some 65 percent from that flown in 1978--the year the Airline Deregulation Act was passed.

While I have an open mind concerning the DOT-FAA relationship, I believe that aviation is an integral part of a national transportation system and over-arching aviation policies must be developed within that context. Day-to-day management, however, is the responsiblity of the FAA Administrator.

I also share the desires of Congress and the aviation community, including the traveling public, to maintain the safest, most up-to-date aviation system in the world. It is a system that must continue to take full account of the needs of consumers and the air transportation industry, including general aviation.

In conjunction with other Administration officials, the Congress, and the aviation community, I intend to review a wide range of proposals and options designed to enhance FAA's response to the changing requirements of our aviation system.

Whatever may develop in this area, I look forward--if confirmed--to working with you in reaching a final determination on how best to proceed. I do not now have a schedule for legislative action.

(KASTEN #4)

Question #4: In recent years, FAA budget requests have repeatedly been cut by OMB before the President's budget has been finalized. It frequently seems that everyone but OMB can agree on what is necessary in the way of adequate levels of aviation safety and capacity spending. What would you recommend to address this perpetual problem?

Answer:

President Bush has stated, and I agree, that fees that aviation users are paying into the Trust Fund ought to be used to fund critical aviation needs. I am convinced that the newly confirmed OMB Director Richard Darman supports this aspect of the President's philosophy as I do.

As the President has said, "...to take us into the 1990's and beyond, we need a broad national consensus, requiring cooperation by Congress and strong support from state and local authorities, to further expand and modernize the nation's airports and our air traffic control system." I join the President in his commitment to see that aviation user fees are spent for the purposes for which they were intended, consistent with addressing the deficit.

(KASTEN #5)

Question #5: Following the bombing of Pan Am Flight 103, the FAA Administrator imposed additional emergency security requirements on all U.S.; air carriers operating out of 44 foreign airports, primarily in Western Europe and the Middle East. Despite the urging of the leaders of six Congressional Committees, the Administrator decided not to impose the same requirements on Foreign air carriers that serve the U.S. from the same airports, even though some 50 percent of U.S. citizens who travel to those locations use Foreign air carriers. Do you agree with that decision?

Answer:

I am not yet familiar with the intelligence data and other factual considerations involved in the Administrator's decision. However, aviation security is a global concern, and we have been working through the International Civil Aviation Organization (ICAO) to achieve the intensified security countermeasures now needed. The United States just joined the United Kingdom in calling on ICAO to hold, in the very near future, a Special Session of its Council which I plan to attend, if I am confirmed.

One of our primary objectives for this Ministerial-level meeting is to reach agreement on strengthened ICAO international security standards, and consider how they can be expanded and applied uniformly to operations assessed as subject to high risk. Increased research and development on explosives detection, aircraft design and construction, and security equipment should be given emphasis. This administration is committed to ending terrorism in the skies.

(GORTON #1)

QUESTION #5: There has been considerable concern over the last few years that insufficient funding has been made available for airport improvements from the aviation trust fund. The Port of Seattle estimates that it will need to spend over $95 million in trust fund eligible projects in the next three years.

While it is too early to predict what will happen in FY 90 and 91, this year, the Port of Seattle is eligible to receive only $6.6 million in entitlement funds on eligible projects costing $18 million. Furthermore, the port has been advised that no discretionary funds are available.

We have been told that the reason no discretionary funds are available is because Sea-Tac is in the same region as Denver where large expenditures of funds will be necessary for a new airport.

Is the shortfall situation at Sea-Tac happening around the country?

Is the impact of Denver being felt in all regions or just the west?

Do you foresee any discretionary funds being available this year?

ANSWER:

I am concerned that there be adequate funding available for airport capacity growth and improvement, both from federal funding and from alternative state and regional financing mechansims as well as landing fees. Finding appropriate resources is one of the biggest challenges the Secretary of Transportation faces. As to the specifics of the situation facing Sea-Tac and the western part of the country, I would have to review program details before responding to the points you make.

(GORTON #2)

QUESTION #2: FAA recently issued a rule which will require the installation of a very sophisticated and costly security access system. While we all applaud the effort to increase security at airports, I am wondering if this new requirement will be funded from the same allocation of funds which is already experiencing a shortage.

Do you think it would be appropriate to earmark trust fund monies above the normal levels for this security projects so that other needed airport improvements would not suffer?

ANSWER:

Federal grants to airports for purchase and installation of the required security access system can currently be made under the Airport Improvement Program (AIP) and, at present cost estimates, no additional funding for this is necessary. Safety and security equipment such as this holds top priority in the program and the necessary funds will be made available as eligible airport sponsors request them.

(GORTON #3)

QUESTION #3: The Port of Seattle has invested heavily in attracting additional air cargo capacity at Sea-Tac. There is an immediate need for more cargo lift to Europe. Cargolux, which currently has about four flights a week from Sea-Tac to Luxembourg, would like to increase service to perhaps six flights a week. Currently cargo is brought to Seattle by ship, transferred from the piers to the airport, and loaded on the planes for Europe. The Port of Seattle estimates that it has created an additional 1,000 jobs in the state. There are no U.S. carriers interested in serving this route. DOT has not consented to the increased service by Cargolux arguing that we should not grant additional rights to a carrier from Luxembourg until a U.S. carrier is interested in serving Luxembourg from the U.S.

My question is, when a U.S. carrier is not interested in serving a foreign market, does it make sense to prevent a foreign carrier from serving this market? While I understand the goals of our policy, in a case such as this one where there is not a U.S. carrier trying to enter a foreign market, aren't we sacrificing American jobs by this intransigence?

Answer:

As a general principle, I think it is important to consider not only the potential job creation and benefits to communities that derive from the grant of authority to foreign carriers, but also the potential for lost jobs at U.S. airlines and at industries dependent on healthy, vibrant U.S. airlines. I am not familiar with the specific case, however, and would like to withold comment.

(GORTON #4)

QUESTION #4:- The Passenger Service Act of 1986 restricts the movements of passengers between two U.S.-flagged vessels. Foreign-flagged ships can transport passengers on a round-trip but the market is only for one-way. Due to time constraints, passengers want to fly the other way.

The problem is that we have no U.S. flagged cruise ships operating outside of a very limited Hawaiian area. While the goal of the Act is to protect U.S. jobs, there are no U.S. jobs now in existence to protect. We are losing business and jobs to the Canadians. While there is no cruise ship business between Puget Sound and Alaska, there are several hundred sailing from Vancouver, B.C. to cities in Alaska every summer.

Would you be interested in looking into this issue to see if an update in the present law is warranted?

ANSWER:

The coastwise laws are vitally important to the maintenance of a strong merchant marine and U.S. sealift capability. Like President Bush, I am committed to them.

I recognize, however, that there may arise specific and very limited situations within their overall coverage where some controlled departure may be found to serve the national interest. A number of such departures have occurred. I am not fully familiar with the specifics of the Alaskan cruise trade. However, I understand that there may be some unique economic factors which could call into question our existing policy on domestic trading restrictions. I will be happy to examine closely this trade to determine whether any exemption should be granted for foreign flag participation.

(GORTON #5)

QUESTION #5: For the last couple of years, there has not been a separate line-item for funding for R&D in the Maritime Administration. What little R&D has done has been funded through the operation and training accounts.

The R&D account could fund research that would help U.S. industry to remain and become more competitive in the international marketplace on such items as the compatibility of transportation modes, evaluating equipment and standards, and conducting productivity studies. The federal government could play a role in the rebuilding of the Merchant Marine.

Do you expect to give a priority to Research and Development?

ANSWER:

I believe we need to structure our promotional programs to encourage productivity improvement and competitiveness. The bottom line is that we are committed to a comprehensive maritime policy, with the ultimate goal of restoring the U.S. maritime industry in the interests of economic and national security.

The role of research and development, within the context of current budgetary constraints, is one element that will be considered in the development of that policy.

(LOTT #1)

Question #1: In recent years, FAA budget requests have repeatedly been cut by OMB before the President's budget has been finalized. It frequently seems that everyone but OMB can agree on what is necessary in the way of adequate levels of aviation safety and capacity spending. What would you recommend to address this perpetual problem?

Answer:

President Bush has stated, and I agree, that fees that aviation users are paying into the Trust Fund ought to be used to fund critical aviation needs. I am convinced that the newly confirmed OMB Director Richard Darman supports this aspect of the President's philosophy as I do.

As the President has said, "...to take us into the 1990's and beyond, we need a broad national consensus, requiring cooperation by Congress and strong support from state and local authorities, to further expand and modernize the nation's airports and our air traffic control system." I join the President in his commitment to see that aviation user fees are spent for the purposes for which they were intended, consistent with addressing the deficit.

(LOTT #2)

Question #2: Following the bombing of Pan Am Flight 103, the FAA Administrator imposed additional emergency security requirements on all U.S.; air carriers operating out of 44 foreign airports, primarily in Western Europe and the Middle East. Despite the urging of the leaders of six Congressional Committees, the Administrator decided not to impose the same requirements on Foreign air carriers that serve the U.S. from the same airports, even though some 50 percent of U.S. citizens who travel to those locations use Foreign air carriers. Do you agree with that decision?

Answer:

I am not yet familiar with the intelligence data and other factual considerations involved in the Administrator's decision. However, aviation security is a global concern, and we have been working through the International Civil Aviation Organization (ICAO) to achieve the intensified security countermeasures now needed. The United States just joined the United Kingdom in calling on ICAO to hold, in the very near future, a Special Session of its Council which I plan to attend, if I am confirmed.

One of our primary objectives for this Ministerial-level meeting is to reach agreement on strengthened ICAO international security standards, and consider how they can be expanded and applied uniformly to operations assessed as subject to high risk. Increased research and development on explosives detection, aircraft design and construction, and security equipment should be given emphasis. This administration is committed to ending terrorism in the skies.

(LOTT #3)

Question #3: The terrorist bombing of Pan Am Flight 103 last month demonstrates the changing nature of the security threat against U.S. airlines. It is far different problem from the hijackers of the 1970's whose demand was for free transportation. Now the threat is sabotage by international terrorists seeking to influence the behavior of governments through acts of violence against commercial aviation.

Modification of government policy is the real goal; U.S. airlines the surrogate targets. The airlines have expressed the view that the nature of today's threat requires a much greater role for government in airline security. Specifically, the FAA should concentrate its aviation resources where they are needed most -- the 44 high-threat airports in Europe, the Middle East, and the Far East. These are the locations where the threat is greatest and where the airlines believe the presence of government security officials would be of greatest assistance and would provide a significant deterrence. Do you agree that there is a need to reexamine and expand the role of government in the security of U.S. air carriers?

Answer:

The Department is moving aggressively to counteract the higher threat levels against U.S. air carriers and passengers. A week after the flight 103 tragedy, FAA imposed additional security requirements on U.S. carrier operations at Western Europe and Middle East airports. Administrator McArtor wrote to his civil aviation counterparts in other countries encouraging them to also upgrade their security provisions.

On January 24, the United States and the United Kingdom jointly called for a special Session of the Council of the International Civil Aviation Organization (ICAO) to improve international security procedures. We urged that representation be at the Ministerial level, and I stand ready to attend for the United States, subject to my Senate confirmation. Aviation security is an international problem and we will be seeking strengthened international standards and cooperation to deal with this critical issue.

UNITED STATES SENATE,
Washington, DC, January 20, 1989.

Hon. ERNEST F. HOLLINGS,
Chairman, Committee on Science, Commerce, and Transportation,
Washington, DC.

DEAR FRITZ: As Chairman of the Subcommittee on Housing and Urban Affairs, I have a keen interest in the confirmation hearings for Secretary of Transportation-designate, Samuel Skinner, because of his responsibilities for mass transit programs, over which the Subcommittee has legislative jurisdiction.

I am very pleased with the nomination of such an outstanding mass transit expert to head the Department of Transportation. Since 1984, Samuel K. Skinner has been the Chairman of the Regional Transportation Authority of Northeastern Illinois (RTA), the second largest mass transit system in the country. He is the first Secretary of Transportation-designate who has a significant background in mass transit. Mr. Skinner put the RTA on a sound footing after years of financial problems. He also has a reputation for effective bipartisan work with the RTA board. I look forward to Mr. Skinner's confirmation and to working with him on mass transit matters.

I request that you submit the attached questions to Mr. Skinner for his views.

I request that Mr. Skinner's answers to these questions be included in the hearing record.

Sincerely,

ALAN CRANSTON,
U.S. Senator.

Enclosure.

Question 1. President Reagan's budget proposes a 52 percent reduction of mass transit funding from the current level. In 1985, you testified before the Senate Appropriations Committee, against even less draconian cuts arguing that they would be "clearly devastating to the system." You testified that, "We cannot afford to have our transit funding down any more. It is already down 20 percent since 1981." The base of funding for mass transit is now even lower than when you delivered your testimony. What do you intend to do as Secretary of Transportation to avoid further cuts and push for more adequate funding for mass transit?

Answer. I have found out quickly that the perspective at the Federal and national level is different from that at the local level. Among other things, at the Department of Transportation we have to consider the competing needs of a variety of transportation agencies as we develop our budget and policies. I understand the importance of mass transit but I am also acutely aware of the budget deficit and demand for scarce transportation resources. In the context of developing a national transportation policy, I intend to balance a variety of needs.

Question 2. An increased Federal gasoline tax is one of the most frequently cited sources of revenue for deficit reduction. Some tend to favor increasing the Federal gasoline tax but spending none of the increased revenue on the nation's highway and mass transit needs. What do you believe should be done regarding the gasoline tax and the use of any increase in revenue?

Answer. We are all aware of the President's campaign pledge not to raise taxes and that is something that will be guiding us as we develop our budget proposal. I oppose any increase in the federal gasoline tax at this time, either for deficit reduction or for transportation purposes.

Question 3. Improved mass transit is one of the most effective means for reducing roadway congestion and motor vehicle related air pollution in our cities. Do you favor increasing the mass transit share of the Federal gasoline tax revenue. How would you use your position as Secretary of Transportation to address environmental concerns?

Answer. I agree that improved mass transit can be effective in helping to reduce traffic congestion and the associated pollution, and we will be looking at a variety of policies to encourage greater use of mass transit in our cities.

I think there are a variety of ways the Secretary of Transportation can address environmental concerns, particularly in the mass transit area. For example, the Department is currently undertaking a study on the use of alternative fuels in buses. As Secretary, one of my goals would be to ensure that environmental concerns continue to be fully considered in the implementation of DOT programs.

Question 4. Existing law imposes tight diesel emissions standards on buses to reduce carbon dioxide pollution. Mass transit operators complain that, because trucks are not held to a similar standard, mass transit operators must pay an inor-

dinately high cost because reduced-emissions engines are produced in low volume only for buses. As Secretary, how would you deal with the problem of reducing pollution caused by the nation's diesel fleet? What are your views on uniform diesel emissions standards for buses and trucks?

Answer. UMTA has developed an alternatives fuel demonstration program to see how well buses operate using fuels other than diesel. The results of that study should be quite useful. In addition, I would like to take a careful look at the issue of whether there should be uniform diesel emission standards for buses and trucks.

Question 5. What is your assessment of Secretary Burnley's proposal to consolidate transit, highway and other modal administrations into a single assistant secretariat for surface transportation?

Answer. I am aware of the Burnley suggestions and of several other proposals for change originating in Congress and some of the "think tanks" in Washington.

If confirmed, I would plan to review these proposals. I believe a lot can be achieved through active management, and I intend to reach out not only to Congress for thinking, but to industry, consumers of transportation services, and to my own Department for guidance. The first step is to examine the underlying policy issues behind the proposals, and I intend to do so after immersing myself in the substantive matters of the Department.

Question 6. How do you assess the benefits and drawbacks of loosening restrictions on the use of mass transit funds to increase program flexibility and encourage new initiatives? To what extent would you support such a loosening?

Answer. I would strongly support any effort to provide greater flexibility and decision-making at the local level, as long as we can be assured that the basic purposes of the underlying law and Federal requirements are being met.

Question 7. The Urban Mass Transportation Act prevents UMTA from interfering in local and State choices of public and private transportation providers. Recent statements by DOT and UMTA officials have indicated a preference for private providers. What steps can be taken to reaffirm the federal policy of neutrality and local self-determination in this area?

Answer. I am told the Urban Mass Transportation Act of 1964, as amended, clearly provides that private transportation providers are to be considered at the local level for the provision of mass transit services to the maximum extent feasible. I believe, at the same time, however, UMTA should make it clear that the ultimate decision on who is to provide the service must be made at the local level.

Question 8. If confirmed, what will be your priorities for the Department of Transportation? What new mass transit initiatives are you considering?

Answer. If confirmed, my principal goal, in consultation with the Congress, the public, industry, and the President, will be to develop a national transportation policy that enhances both our national security and strengthens our economy. A national transportation policy will enable industry to provide efficient competitive delivery of goods and services, and must be one that delivers the public to its destinations quickly, efficiently, at the right price—and safely. This will require attention to current and future infrastructure needs; a commitment to intermodalism; and will necessarily require a determination to provide services through the free market mechanism to the extent possible.

I have not developed any new mass transit initiatives at this time.

STATEMENT OF HON. JERRY F. COSTELLO, U.S. REPRESENTATIVE FROM ILLINOIS

Mr. Chairman, I want to thank the committee for this opportunity to offer testimony in support of Mr. Samuel K. Skinner, U.S. Department of Transportation Secretary designate, during this time of his confirmation.

Mr. Skinner, during his four years as head of the Regional Transportation Authority in Illinois, demonstrated a capacity for excellent management and professionalism that will serve the U.S. Department of Transportation well. Under his leadership, the RTA has become an example of transit excellence to Illinois and the whole country.

Mr. Skinner's background will be of great benefit in facing the many challenges that are present in the transportation field. As a pilot, he will bring a new perspective to the problems that exist in our country's aviation system. And, as one with direct experience in local transit issues, his ideas will benefit those communities who are looking for new avenues (such as light rail and commuter transit) to deal with ever-growing problems associated with a growing urban workforce.

Mr. Skinner has demonstrated a keen competence in dealing with and finding solutions for complex transportation problems. I am confident that he can meet the

future challenges awaiting our country's transportation systems. I strongly encourage the committee to approve the nomination of Sam Skinner as U.S. Secretary of Transportation.

STATEMENT OF THE NATIONAL PRIVATE TRUCK COUNCIL

The National Private Truck Council supports the nomination of Samuel Skinner for Secretary of Transportation.

NPTC is the new national association exclusively representing manufacturers, processors, distributors, and retail establishments that operate their own fleets of trucks incidental to and in futherance of their primary, non-transportation business enterprises.

Fifty percent of this nation's freight which is shipped by truck moves in private carrier fleets, which make up the largest segment of the trucking industry. NPTC is the key conduit to this large shipping community.

NPTC will play a key role in making things happen in this nation's transportation arena. The first item on our agenda for 1989 is to support the confirmation of Samuel Skinner as Secretary of Transportation.

We want to work with the new Secretary, and the Commerce Committee, in seeking to solve the problems confronting the trucking industry, particularly in the area of truck safety and drug abuse.

This committee has enacted very important legislation in the last several years in the area of truck safety. We want to continue to help implement this legislation.

We feel Mr. Skinner comes highly qualified to ensure that his Department will play its proper role in this process. We want to support him in his effort.

UNITED BUS OWNERS OF AMERICA,
January 13, 1989.

Hon. ERNEST F. HOLLINGS,
Chairman, Senate Committee on Commerce, Science, and Transportation, Senate Office Building, Washington, DC.

DEAR SENATOR HOLLINGS: As Executive Director of the 1,600-member United Bus Owners of America (UBOA), the nation's largest association of private bus company owners and operators, I write today to offer UBOA's strongest support for the confirmation of Samuel Skinner to the position of U.S. Secretary of Transportation.

Secretary-designate Skinner's record of public service is impressive and demonstrates a genuine concern for the public interest, combined with the integrity and skills which UBOA believes will benefit both the travelling public and the transportation professional. His understanding of the Nation's transportation needs makes him an ideal candidate to fill this most important position at a time when America's entire passenger transportation system is due for review. We consider Mr. Skinner's abilities and leadership to be ideally suited to shape this Nation's transportation infrastructures and policies for the new century.

The United Bus Owners of America urge that you and your committee act favorably on approving Mr. Skinner's nomination in a timely manner.

Sincerely,

WAYNE J. SMITH,
Executive Director.

NATIONAL ASSOCIATION OF RAILROAD PASSENGERS,
Washington, DC, January 19, 1989.

Hon. ERNEST F. HOLLINGS,
Chairman, Senate Commerce Committee,
Washington, DC.

DEAR MR. CHAIRMAN: Our Association supports the nomination of Samuel K. Skinner to be secretary of transportation.

His work with Chicago-area public transportation suggests that he will bring to the office more knowledge about the importance of mass transit—including its economic importance—than did most of his predecessors.

We understand that, on his initiative, the Regional Transportation Authority of Northeastern Illinois developed a 10-year transportation plan for the Chicago area, including capital requirements. We also understand that he has commuted by train between Lake Forest and Chicago for more than 10 years.

Obviously we don't know what policies he would be called upon to support, and would fight any endorsement of the Reagan budget as it applies to Amtrak and mass transit.

However, general competence in both the public and private sectors *and* knowledge of public transportation represent crucial assets in a transportation secretary which Mr. Skinner appears to have in abundance. We look forward to working with him.

Sincerely,

ROSS CAPON,
Executive Director.

PORT AUTHORITY OF ALLEGHENY COUNTY,
Pittsburgh, PA, January 20, 1989.

Hon. ERNEST F. HOLLINGS.
Chairman, Senate Committee on Commerce, Science, and Transportation,
Washington, DC.

DEAR SENATOR HOLLINGS: I am writing to express my enthusiastic support for the nomination of Mr. Samuel K. Skinner to be Secretary of Transportation.

As Executive Director of Port Authority of Allegheny County, a public transportation agency providing bus, trolley, commuter rail, inclined plane and paratransit service to 300,000 daily riders in metropolitan Pittsburgh, I have had the opportunity to work with Mr. Skinner on national transportation issues. I have testified before Congress along side Mr. Skinner regarding the iumportance of public transportation, and have found him to be a fair and decisive person with a keen awareness of the dynamics of government. I know that he will be an outstanding Transportation Secretary.

Please contact me if I may provide any further information.

Sincerely yours,

WILLIAM W. MILLAR,
Executive Director.

ACCESS LIVING,
Chicago, IL, January 20, 1989.

Hon. Senator ERNEST F. HOLLINGS,
Washington, DC.

DEAR SENATOR HOLLINGS: I am writing in behalf of Access Living of Metropolitan Chicago to request the Senator's assistance in clarifying the stance on disability issues of Mr. Sam Skinner, nominee for United States Secretary of Transportation.

We in the disabled community have felt some reservations about supporting Mr. Skinner's nomination to head the Department of transportation. This stems from the fact that when an Illinois Human Rights Judge, in *Jones, et al,* v. *CTA,* ruled that the Chicago Transit Authority must install wheelchair lifts on its mainline buses, Skinner vehemently opposed the decision and vowed to appeal. He subsequently made knowingly false statements in the press about the cost of lifts and the negative impact, i.e., higher fares. I enclose news clips to document his pronouncements.

In June of 1988, however, Mr. Skinner and the Regional Transportation Authority began to change directions and engaged in negotiations that will probably soon result to a settlement of *Jones* v. *CTA.* There were times when Skinner personally intervened and got stalled talks to resume. While he made significant concessions, he apparently made them in order to relieve himself of political baggage.

We respectfully urge that the Senator ask the real Sam Skinner to please stand up during confirmation hearings. Will he actively promote the rights of people with disabilities to full access to public transit? Or will be return to an obstructionist position with respect to accessible, mainline transit? Will he continue the oppressive policy of local option?

These are important civil rights questions to the disabled community. It is our hope that the new and improved Sam Skinner is the one who wants to go to Washington. And we hope that we will be able to work with him towards the goal of independence, equality, and integration of people with disabilities.

I respectfully request that this letter be submitted for the record during confirmation hearings.

Thank you for your time and consideration on this matter. If I can be of any further help, please contact me at 312-226-5900, ext. 31.

Sincerely,

RENE DAVID LUNA,
Disability Rights Coordinator.

ACCESS LIVING,
Chicago, IL, January 20, 1989.

Senator ERNEST HOLLINGS,
Senate Russell Office Building,
Washington DC.

DEAR SENATOR: On behalf of Access Living, Chicago's independent living center, I want to express strong opposition to the appointment of Sam Skinner as Transportation Secretary.

I'm sure you have been made aware of the bitterness Skinner caused when he positioned himself as the last opponent of mainline access. Even after the Chicago Transit Authority Board gave in, Skinner and the RTA stood in the way like George Wallace in the school house door.

Skinner claims he has changed, but even the agreement reached with ADAPT recently does not exactly reflect a resounding confirmation of the rights of persons with disabilities to equal access. He insists on using cost as a judgment criteria, which says he believes in full rights for persons with disabilities only when economically expedient. Such an attitude in a man in a position to have a profound impact on the future of persons with disabilities can only set us back.

Thank you and if I can be of further assistance, please feel free to contact me at Access Living.

Sincerely,

MARCA BRISTO,
President.

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